

**REQUEST FOR PROPOSALS (RFP) No. EPP-RFP740  
FOR A  
Automated Playout System**

**PRE-PROPOSAL CONFERENCE TO BE HELD ON**

Friday, June 25, 2010 at 10:00 a.m. (local time)

at

111 NW 1 Street, Conference Room B  
Miami, Florida 33128

**ISSUED BY MIAMI-DADE COUNTY:**

Department of Procurement Management  
for the  
Government Information Center

Sr. Procurement Contracting Agent: Leida Altman Carrillo

111 NW 1<sup>st</sup> Street, Suite 1300, Miami, Florida 33128

Telephone: (305) 375-1084

E-mail: [lcarril@miamidade.gov](mailto:lcarril@miamidade.gov)

**PROPOSALS ARE DUE AT THE CLERK OF THE BOARD NO LATER THAN:  
WEDNESDAY, July 14, 2010 AT 2:00 PM (LOCAL TIME)**

at

CLERK OF THE BOARD

Stephen P. Clark Center

111 NW 1<sup>st</sup> Street, 17<sup>th</sup> Floor, Suite 202  
Miami, Florida 33128-1983

**The Clerk of the Board business hours are 8:00 a.m. to 4:30 p.m., Monday through Friday. Additionally, the Clerk of the Board is closed on holidays observed by the County.**

All proposals received and time stamped by the Clerk of the Board prior to the proposal submittal deadline shall be accepted as timely submitted. The circumstances surrounding all proposals received and time stamped by the Clerk of the Board after the proposal submittal deadline will be evaluated by the procuring department in consultation with the County Attorney's Office to determine whether the proposal will be accepted as timely. Proposals will be opened promptly at the time and date specified. The responsibility for submitting a proposal on or before the stated time and date is solely and strictly the responsibility of the Proposer. The County will in no way be responsible for delays caused by mail delivery or caused by any other occurrence. All expenses involved with the preparation and submission of proposals to the County, or any work performed in connection therewith, shall be borne by the Proposer(s).

The submittal of a proposal by a Proposer will be considered by the County as constituting an offer by the Proposer to perform the required services at the stated prices. A Proposer may submit a modified proposal to replace all or any portion of a previously submitted proposal up until the proposal due date. The County will only consider the latest version of the proposal.

Requests for additional information or inquiries must be made in writing and received by the County's contact person for this Solicitation. The County will issue responses to inquiries and any changes to this Solicitation it deems necessary in written addenda issued prior to the Proposal Due Date. Proposers who obtain copies of this Solicitation from sources other than the County's Department of Procurement Management website at [www.miamidade.gov/dpm](http://www.miamidade.gov/dpm) or the Vendor Assistance Unit risk the possibility of not receiving addenda and are solely responsible for those risks.

**TABLE OF CONTENTS**

|   |           |
|---|-----------|
| <b>1.0 PROJECT OVERVIEW AND GENERAL TERMS AND CONDITIONS</b>                  | <b>3</b>  |
| 1.1 Introduction  | 3         |
| 1.2 Definitions   | 3         |
| 1.3 General Proposal Information  | 5         |
| 1.4 Cone of Silence   | 5         |
| 1.5 Public Entity Crimes  | 6         |
| 1.6 Lobbyist Contingency Fees   | 6         |
| 1.7 Collusion   | 7         |
| 1.8 Expedited Purchasing Program  | 7         |
| <b>2.0 SCOPE OF SERVICES</b>  | <b>7</b>  |
| 2.1 Background  | 7         |
| 2.2 Objective   | 8         |
| 2.3 Desired Technical Functionalities and Services to be Provided             | 8         |
| 2.4 Desired Maintenance Support Services Requirements                         | 15        |
| 2.5 Desired Technical Support   | 15        |
| 2.6 Additional Minimum Services   | 16        |
| 2.7 Minimum Application Software Licenses                                     | 16        |
| 2.8 Desired Maintenance Support Services to be Provided                       | 16        |
| 2.9 Testing & Implementation  | 20        |
| 2.10 Payment Schedule   | 20        |
| <b>3.0 RESPONSE REQUIREMENTS</b>  | <b>21</b> |
| 3.1 Submittal Requirements  | 21        |
| <b>4.0 EVALUATION PROCESS</b>   | <b>21</b> |
| 4.1 REVIEW OF PROPOSALS FOR RESPONSIVENES                                     | 21        |
| 4.2 Evaluation Criteria   | 21        |
| 4.3 Oral Presentations  | 22        |
| 4.4 Selection Factor  | 22        |
| 4.5 Local Certified Service-Disabled Veteran's Business Enterprise Preference | 22        |
| 4.6 Price Evaluation  | 22        |
| 4.7 Local Preference  | 22        |
| 4.8 Negotiations  | 22        |
| 4.9 Contract Award  | 23        |
| 4.10 Rights of Protest  | 23        |
| <b>5.0 TERMS AND CONDITIONS</b>   | <b>24</b> |
| <b>6.0 ATTACHMENTS</b>  | <b>25</b> |
| Proposal Submission Package   | 26        |

|  |    |
|--|----|
| Form B-1 Price Proposal Schedule ..... | 30 |
| FORM A-1.....                          | 38 |
| FORM A-2.....                          | 39 |
| FORM A-3.....                          | 40 |
| FORM A-4.....                          | 41 |
| FORM A-5.....                          | 43 |
| FORM A-6.....                          | 44 |
| Draft Form of Agreement .....          | 46 |

## 1.0 PROJECT OVERVIEW AND GENERAL TERMS AND CONDITIONS

### 1.1 Introduction

Miami-Dade County, hereinafter referred to as the County, as represented by Miami-Dade TV, a division of the Government Information Center (GIC), is soliciting proposals for a commercially available off-the-shelf Automated Playout System. The selected proposer will be responsible for providing the County a turnkey solution to automate and control the playback of original programming

The County anticipates awarding a contract for an initial three (3) year period, with five (5) two year options to renew, at the County's sole discretion.

#### **The anticipated schedule for this Solicitation is as follows:**

|                                    |   |
|------------------------------------|---|
| Solicitation Issued:               | Friday June 18, 2010  |
| Pre-Proposal Conference:           | Friday, June 25, 2010   |
| Location                           | 111 NW 1 <sup>ST</sup> Street, Conference Room B<br>Miami, Florida 33128        |
| Pre-Proposal Question Period Ends: | Tuesday, July 2, 2010 at 5:00PM (Local Time)                                    |
| Proposal due date:                 | Wednesday, July 14, 2010 at 2:00 PM (Local Time) (See Section 1.4 for Location) |
| Evaluation/Selection Process:      | Anticipated to begin the week of July 19, 2010                                  |
| Oral Presentations (if conducted): | Anticipated to begin the week of August 2, 2010                                 |
| Projected Award Date:              | Anticipated October 2010  |

### 1.2 Definitions

The following words and expressions used in this Solicitation shall be construed as follows, except when it is clear from the context that another meaning is intended:

- (a) The term "Application Software" or "Licensed Software" to mean the license programs that will be used to perform the tasks specified in the Scope of Services.

- (b) The terms "Contractor" or "Consultant" or "Vendor" to mean the Proposer who receives any award of a Contract from the County as a result of this Solicitation, which is also to be known as "the prime Contractor" or "the prime Consultant."
- (c) The term "County" to mean Miami-Dade County, a political subdivision of the State of Florida.
- (d) The word "Department" to mean the Miami-Dade County Government Information Center (GIC).
- (e) The word "Days" to mean calendar days.
- (f) The word "Deliverables" to mean the tangible work product that will be submitted by the Contractor to the County.
- (g) The word "Review Team" to mean the group of individuals who will be reviewing the submitted Proposals and eventually recommending a Proposer for award.
- (h) The word "Final Acceptance" to mean the successful completion of testing and County acceptance of the delivered License Software, which demonstrates that the Software will operate, and perform as required by Section 2.0: Scope of Services of this RFP.
- (i) The word "GoLive" or "GoLive Date" to mean the date on which the delivered System is used in a production environment.
- (j) The word "Live Support" to mean Contractor help desk services that meets the requirements as stated in Section 2.0: Scope of Services of this RFP.
- (k) The word "Maintenance" to mean keeping the licensed software in a condition so that it operates as set forth in the documentation and in conformity to Section 2.0: Scope of Services of this RFP.
- (l) The word "Proposer" to mean the primary person, firm, entity or organization submitting a response to this Solicitation and stated in Form A-1.
- (m) The words "Scope of Services" or "Scope of Work" to mean Section 2.0 of this RFP, which details the work to be performed by the Contractor or Subcontractor.
- (n) The word "Services" to mean all actions performed or to be performed by the Contractor or its Subcontractors as listed in Section 2.0: Scope of Services of this RFP.
- (o) The word "Solicitation" to mean this Request For Proposal (RFP) document and all associated addenda and attachments.
- (p) The words "Subcontractor" or "Subconsultant" to mean any person, firm, entity or organization, other than the employees of the Contractor, who contracts with the Contractor to furnish labor, or labor and materials, in connection with the Work or Services to the County, whether directly or indirectly, on behalf of the Contractor.
- (q) The word "Third-Party" to mean any company or subcontractor, other than the Contractor, who will provide software, and/or services in order to fulfill the requirements of Section 2.0: Scope of Services of this RFP.
- (r) The word "User" to mean any County staff accessing the licensed software.
- (s) The word "Warranty Period" to mean the period beginning with Final Acceptance of the System and continuing for one year.

- (t) The words "Work," "Services," "Program," "Project," or "Engagement" to mean all matters and things that is required to be done by the Contractor in accordance with Section 2.0: Scope of Services of this RFP and the terms and conditions of this Solicitation.
- (u) The word "Miami-Dade TV", to mean a division of the GIC is the County's government access television station, carried by all cable TV systems in Miami-Dade County.
- (v) The words "Solution" and "System" to mean the software, hardware, databases, and all components required to implement, deploy, maintain, and operate the goods and services described in Section 2.0 of this Solicitation.

### **1.3 General Proposal Information**

The County may, at its sole and absolute discretion, reject any and all or parts of any or all responses; accept parts of any and all responses; further negotiate project scope and fees; postpone or cancel at any time this Solicitation process; or waive any irregularities in this Solicitation or in the responses received as a result of this process. Proposers may take exceptions to any of the terms of this Solicitation unless the Solicitation specifically states where exceptions may not be taken. The County may accept or reject the exceptions at its sole discretion and the Proposer's proposal shall be binding on the Proposer as if submitted without exception. The County reserves the right to request and evaluate additional information from any respondent after the submission deadline as the County deems necessary.

Proposals shall be irrevocable until contract award unless the proposal is withdrawn. A proposal may be withdrawn in writing only, addressed to the County contact person for this Solicitation, prior to the proposal due date or upon the expiration of 180 calendar days after the opening of proposals.

Proposers are hereby notified that all information submitted as part of, or in support of proposals will be available for public inspection after opening of proposals, in compliance with Chapter 119, Florida Statutes, popularly known as the "Public Record Law". The Proposer shall not submit any information in response to this Solicitation which the Proposer considers to be a trade secret, proprietary or confidential. The submission of any information to the County in connection with this Solicitation shall be deemed conclusively to be a waiver of any trade secret or other protection, which would otherwise be available to Proposer. In the event that the Proposer submits information to the County in violation of this restriction, either inadvertently or intentionally, and clearly identifies that information in the proposal as protected or confidential, the County shall endeavor to redact and return that information to the Proposer as quickly as possible, and if appropriate, evaluate the balance of the proposal. The redaction or return of information pursuant to this clause may render a proposal non-responsive.

Any Proposer who, at the time of proposal submission, is involved in an ongoing bankruptcy as a debtor, or in a reorganization, liquidation, or dissolution proceeding, or if a trustee or receiver has been appointed over all or a substantial portion of the property of the Proposer under federal bankruptcy law or any state insolvency law, may be found non-responsible. To request a copy of any ordinance, resolution and/or administrative order cited in this Solicitation, the Proposer must contact the Clerk of the Board at (305) 375-5126.

### **1.4 Cone of Silence**

Pursuant to Section 2-11.1(t) of the Miami-Dade County Code, as amended, a "Cone of Silence" is imposed upon each RFP or RFQ after advertisement and terminates at the time a written recommendation is issued. The Cone of Silence prohibits any communication regarding RFPs or RFQs between, among others:

- potential Proposers, service providers, lobbyists or consultants **and** the County's professional staff including, but not limited to, the County Manager and the County Manager's staff, the Mayor, County Commissioners or their respective staffs;
- the Mayor, County Commissioners or their respective staffs **and** the County's professional staff including, but not limited to, the County Manager and the County Manager's staff; or

- potential Proposers, service providers, lobbyists or consultants, any member of the County's professional staff, the Mayor, County Commissioners or their respective staffs and any member of the respective selection committee.

The provisions do not apply to, among other communications:

- oral communications with the staff of the Vendor Assistance Unit, the responsible Procurement Agent or Contracting Officer, provided the communication is limited strictly to matters of process or procedure already contained in the solicitation document;
- oral communications at pre-proposal conferences, oral presentations before selection committees, contract negotiations during any duly noticed public meeting, public presentations made to the Board of County Commissioners during any duly noticed public meeting; or
- communications in writing at any time with any County employees, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP or RFQ documents.

When the Cone of Silence is in effect, all potential vendors, service providers, bidders, lobbyists and consultants shall file a copy of any written correspondence concerning the particular RFP or RFQ with the Clerk of the Board, which shall be made available to any person upon request. The County shall respond in writing (if County deems a response necessary) and file a copy with the Clerk of the Board, which shall be made available to any person upon request. Written communications may be in the form of e-mail, with a copy to the Clerk of the Board at [CLERKBCC@MIAMIDADE.GOV](mailto:CLERKBCC@MIAMIDADE.GOV).

### **1.5 Public Entity Crimes**

Pursuant to Paragraph 2(a) of Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal for a contract to provide any goods or services to a public entity; may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work; may not submit proposals on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and, may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 for Category Two (\$10,000) for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

### **1.6 Lobbyist Contingency Fees**

- A) In accordance with Section 2-11.1(s) of the Code of Miami-Dade County, after May, 16, 2003, no person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee.
- B) A contingency fee is a fee, bonus, commission or non-monetary benefit as compensation which is dependent on or in any way contingent upon the passage, defeat, or modification of: 1) any ordinance, resolution, action or decision of the County Commission; 2) any action, decision or recommendation of the County Manager or any County board or committee; or 3) any action, decision or recommendation of any County personnel during the time period of the entire decision-making process regarding such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission or a County board or committee.

### **1.7 Collusion**

Where two (2) or more related parties, as defined herein, each submit a proposal for any contract, such proposals shall be presumed to be collusive. The foregoing presumption may be rebutted by the presentation of evidence as to the extent of ownership, control and management of such related parties in preparation and submittal of such proposals. Related parties shall mean Proposer or the principals thereof which have a direct or indirect ownership interest in another Proposer for the same contract or in which a parent company or the principals thereof of one Proposer have a direct or indirect ownership interest in another Proposer for the same

contract. Furthermore, any prior understanding, agreement, or connection between two or more corporations, firms, or persons submitting a proposal for the same services shall also be presumed to be collusive. Proposals found to be collusive shall be rejected. Proposers who have been found to have engaged in collusion may be considered non-responsible, and may be suspended or debarred, and any contract resulting from collusive bidding may be terminated for default.

### **1.8 Expedited Purchasing Program**

Pursuant to Ordinance 07-49, the County has created a pilot program for expedited purchasing, subject to terms and conditions as outlined in Section 2-8.1.6 of the Code of Miami-Dade County. The program shall be referred to as the Expedited Purchasing Program (EPP). Due to the expedited nature of County projects issued under the EPP, participating vendors should anticipate a shortened solicitation timeline for responding. Technical, professional and legal staff may be used to determine best value as set forth in the solicitation documents without the need to utilize the formal Selection Committee process established by the County. The County Manager's or designee's written recommendation to award a contract under the EPP shall be sufficient to commence the bid protest period and terminate the Cone of Silence. Any legislation contrary to the provisions of the EPP shall be deemed suspended or amended as necessary to give effect to the intent of this ordinance during its effective term.

## **2.0 SCOPE OF SERVICES**

### **2.1 Background**

The Government Information Center (GIC) televises Miami-Dade County meetings and public information programming 24 hours a day, 7 days a week, and 365 days a year. Miami-Dade TV is the County's government access television station, carried by all cable TV systems in Miami-Dade County.

Along with live coverage of meetings of the Board of County Commissioners (BCC) and its committees, Miami-Dade TV takes pride in providing residents with a wide variety of informational and educational programming about government programs and services, public safety, arts & culture and the environment. All meetings of the BCC are carried live and recorded for replay by Miami-Dade TV. Meetings are replayed starting at 7:30 p.m. on the same day the meeting occurs. Meetings are also rebroadcast on the following weekend starting at 9:00 a.m. Saturday.

On July 7, 2005, the Miami-Dade Board of County Commission, under Resolution No. R-892-05, charged Miami-Dade TV with the responsibility to broadcast real time public service announcements on the bulletin board. Miami-Dade TV prepares, records, and airs these bulletin style displays at specific times during the daily programming. The announcements vary in subject matter, but typically provide information pertaining to sexual offenders, sexual predators, and most wanted criminals wanted by law enforcement agencies. This service provides the residents of Miami-Dade County with additional protection, information, and awareness.

The Miami-Dade TV currently utilizes the Apella Video Playback/Server Solution and Video Playback/Scheduling Solution Remote Scheduler Software by VideoTechnics, Inc. These applications are installed on 3 servers and 10 client computers in the Miami-Dade TV facility. In addition to managing licensing, these servers are responsible for:

1. Ingesting and off-line editing of video;
2. Scheduling video to playback and record at specified times;
3. Archive files as instructed by the database manager;
4. Non-stop playback of government programming;
5. Simultaneously records approximately 260 hours of BCC Meetings per year;
6. Over 50 hours of studio productions;
7. Daily recordings are required to quickly replay after the meetings are adjourned.

One staff member serves as the “master control” operator in this area. The other staff members are required to operate the basic functions of the solution either at the server location, licensed workstation, or via remote connection.

Miami-Dade TV’s current recording, programming, and playout solution is no longer warranted or supported. As a result, Miami-Dade County wishes to replace the current on-air playback and recording solution for Miami-Dade TV.

## **2.2 Objective**

Miami-Dade County, hereinafter referred to as the County, as represented by Miami-Dade TV, a division of the Government Information Center (GIC), is soliciting proposals for a commercially available off-the-shelf Automated Playout System. The selected proposer will be responsible for providing the County a turnkey solution to automate and control the playback of original programming

The County anticipates awarding a contract for an initial three (3) year period, with five (5) two year options to renew, at the County’s sole discretion.

In addition, the proposed Automated Playout System should provide the following features:

- Play multi format Standard Definition (SD) files, with the option to play High-Definition (HD)
- Control 2 input channels and 4 output channels – simultaneously.
- Schedule recordings
- Schedule playback at timed intervals (hard starts, auto follow, manual)
- Load schedules automatically (when Tuesday finishes, Wednesday loads automatically, etc.)
- Notify/warn when a schedule has gaps or overflow
- Provide a “confidence” monitor to ensure it is receiving proper audio/video signal
- Initiate and end a recording from a remote location – Record/process files in excess of 10 hours long
- Edit and trim recorded files from remote locations
- Play designated files pulled from Miami-Dade TV’s in-house Storage Area Network (SAN)
- Have the ability to control Harris Platinum Routers

## **2.3 Desired Technical Functionalities and Services To Be Provided**

In order for the County to understand how Proposers intend to deliver the identified requirements, the Proposer response shall classify how the requirement is met by specifying the appropriate response code as defined below in the Response column of the Requirements matrix. In your proposal response you are to clearly define and provide screen shots, examples, and samples of canned reports as applicable to your solution.

Comments that further clarify how the requirement is met should be included in the Response Comments column as well as your proposal response. The below table is to be included with your Proposal Submission package as further outlined in Section 3.0 “Proposal Submission Package”.

- **F** – Requirement will be FULLY met with the proposed solution (without configuration, extension(s), or modification).
- **C** – Requirement will be met via configuration (without changing base source code in proposed solution).



- **E** – Requirement will be met via code extensions (without changing base source code in proposed solution).
- **M** – Requirement will be met via modification of the solution.
- **N** – Requirement will not be met. Please provide an explanation as to why.

| Req. No.  | Requirement Description  | Response (F, C, E, M, N) | Response Description |
|---|--|--------------------------|----------------------|
| <b><u>GENERAL SOLUTION SPECIFICATIONS</u></b>                             |  |                          |                      |
| 1   | Solution has the ability to control two input channels and four output channels simultaneously.                                |                          |                      |
| 2   | Solution has the ability to schedule recordings.   |                          |                      |
| 3   | Solution has the ability to schedule playback at timed intervals (hard starts, auto follow, and manual).                       |                          |                      |
| 4   | Solution has the ability to load schedules automatically (example: when Tuesday finishes, Wednesday loads automatically, etc.) |                          |                      |
| 5   | Solution has the ability to notify or warn when a schedule has gaps or overflow.   |                          |                      |
| 6   | Solution has the ability to initiate and end a recording from a remote location.   |                          |                      |
| 7   | Solution has the capability to record a single video event for periods exceeding 10 hours duration.                            |                          |                      |
| 8   | Solution has the ability to edit and trim recorded files from remote locations.  |                          |                      |
| 9   | Solution has the ability to play designated files pulled from Miami-Dade TV's in-house Storage Area Network (SAN).             |                          |                      |
| 10  | Solution has the ability to allow the ingest of media to occur from remote locations.  |                          |                      |
| <b><u>VIDEO SYSTEM SPECIFICATIONS: REAL-TIME MEDIA INPUT / OUTPUT</u></b> |  |                          |                      |

| Req. No. | Requirement Description  | Response (F, C, E, M, N) | Response Description |
|----------|--|--------------------------|----------------------|
| 11       | Solution has the capability and components available for serial digital video input/output channels with embedded stereo audio channels.                   |                          |                      |
| 12       | Solution has the provision for at least two audio pairs per channel through Audio Engineering Society (AES) and Bayonet Neill-Concelman (BNC) connections. |                          |                      |
| 13       | Solution has the ability to allow bi-directional input/output channels when required.  |                          |                      |
| 14       | Solution has the ability to record, store and playback multiple formats of media at the same time.   |                          |                      |
| 15       | Solution has the ability to store start of messages (SOM), cue points, agency ID's and comment/title data.   |                          |                      |

#### **SYSTEM SPECIFICATIONS: HARDWARE / STORAGE / NETWORKING**

|    |  |  |  |
|----|--|--|--|
| 16 | Solution has the ability to incorporate a Redundant Array of Independent Disk RAID protected storage subsystem supporting at least 8 physical disk drives?                           |  |  |
| 17 | Solution's associated hardware will fit into no more than 2 rack units.  |  |  |
| 18 | Solution will provide fully RAID protected storage using a dual parity RAID algorithm.   |  |  |
| 19 | Solution has the ability to continue if two disk drives fail to operate.   |  |  |
| 20 | Solution has hot swappable disk drives.  |  |  |
| 21 | Solution has the ability to support standard file system access protocols including Server Message Block (SMB) and Common Internet File System (CIFS) and the Apple Filing Protocol. |  |  |

| Req. No.  | Requirement Description  | Response (F, C, E, M, N) | Response Description |
|---|--|--------------------------|----------------------|
| 22  | Solution has the ability to include multiple Gigabit Ethernet connections for asynchronous file system access and file transfers.                        |                          |                      |
| 23  | Solution has the ability to support standard network protocols including File Transfer Protocol (FTP).   |                          |                      |
| 24  | Solution has the ability to enable network based control via Gigabit Ethernet connections.   |                          |                      |
| 25  | Solution has the ability to have dual power supplies that are monitored by system management software and alarmed in the event of failure.               |                          |                      |
| 26  | Solution has the capability of delivering full performance when running on only one power supply.  |                          |                      |
| 27  | Solution has the ability to have hot swappable power supplies.   |                          |                      |
| 28  | Solution has the ability to not contain a 'system hard disk' that could become a single point of failure for the server system.                          |                          |                      |
| 29  | Solution has the ability to provide a networked interface enabling remote access and control of all server components.                                   |                          |                      |
| 30  | Solution's data management will be independent of video server operations and be able to shutdown without disrupting video server functionality.         |                          |                      |
| <b><u>"ON-AIR" CHANNEL CONTROL USER INTERFACE</u></b> |  |                          |                      |
| 31  | Solution's channel interface workstations can be network distributed using only Transmission Control Protocol (TCP)/Internet Protocol (IP) connectivity. |                          |                      |
| 32  | Solution's channel interface application can operate multiple workstations including any workstation used by the operator for media ingest.              |                          |                      |

| Req. No.  | Requirement Description  | Response (F, C, E, M, N) | Response Description |
|---|--|--------------------------|----------------------|
| 33  | Solution's actual real-time program channel list control can be independent of the channel control interface such that a failure will not cause automatic program operation to fail.   |                          |                      |
| 34  | Solution's actual real-time program channel list can be controlled independent of the media database such that upgrading or closing the media database will not cause automatic program operation to fail.                                       |                          |                      |
| 35  | Solution has the ability to provide a single button push to invoke off-line mode and return to normal mode.  |                          |                      |
| 36  | Solution has the ability to provide media lookup capability with "drag & drop" functionality such that any clip on the video server may be inserted at any point on the play-list.   |                          |                      |
| 37  | Solution has the ability to allow the operator the ability to override the automation system and make any change to any event.<br><br>(Changes should include: adjust duration, start method, source (video servers, etc), start time, and SOM). |                          |                      |
| 38  | Solution has the ability to allow users to perform a simple "Search and Replace" on any field of an event for the entire play-list.  |                          |                      |
| <b><u>DEVICE CONTROLS</u></b>                     |  |                          |                      |
| 39  | Solution's device controls provide frame accurate control of all real-time devices with reference to station time reference.   |                          |                      |
| 40  | Solution's device controls support control of multiple manufacturers of video servers by the same device server and playlist.  |                          |                      |
| <b><u>MANUAL MEDIA INGEST AND PREPARATION</u></b> |  |                          |                      |
| 41  | Solution's media ingest application will allow automatic control of a source transport and a destination transport to allow frame accurate transfer of assets.   |                          |                      |

| Req. No. | Requirement Description  | Response (F, C, E, M, N) | Response Description |
|----------|--|--------------------------|----------------------|
| 42       | Solution has the ability to allow for each device under control of the ingest application to be configurable to allow pre-roll to single frame resolution.   |                          |                      |
| 43       | Solution's user interface presents both a source and a destination control surface at all times.   |                          |                      |
| 44       | Solution will automatically generate dub lists such that the items to be dubbed appear in the media ingest application and may be selected from the list.  |                          |                      |
| 45       | Solution has the ability to operate without the need to type information for the transfer of scheduled media assets to be transferred to the video server.   |                          |                      |
| 46       | Solution's marking of start of message (SOM), end of message (EOM), as well as program segments and timings for a single video server asset be written automatically to the media management database for the purposes of media preparation. |                          |                      |
| 47       | Solution will allow the marking of program start, end, and segments for videotape programs to be written to the media management database to be retrieved by the "on-air" channel control system.  |                          |                      |
| 48       | Solution will provide a function allowing deletion of video server clips in the media ingest application.  |                          |                      |
| 49       | Solution will function so that a "catch" or "edge" server is treated as a video server if its interface protocol allows such functionality.  |                          |                      |
| 50       | Solution's interface will allow the media management database to query contents and allow that information to be available to users.   |                          |                      |
| 51       | Solution's ingest application will allow metadata be written to the video server simultaneously with the transfer of the clip to the video server.   |                          |                      |

| Req. No.  | Requirement Description  | Response (F, C, E, M, N) | Response Description |
|---|--|--------------------------|----------------------|
| <b><u>AUTOMATIC PROGRAM RECORDING</u></b>         |  |                          |                      |
| 52  | Solution will allow frame accurate control of start of message (SOM) and end of message (EOM) for recording of clips to be accomplished and referenced to station time reference.  |                          |                      |
| 53  | Solution's control of routing switchers and multiple video server ports will be controlled simultaneously for frame accurate automatic program recording.  |                          |                      |
| 54  | Solution has the ability to create successive daily schedules using program record order templates that need only to be entered once to provide all necessary information for each individual program.   |                          |                      |
| <b><u>ADVANCED MEDIA MANAGEMENT FUNCTIONS</u></b> |  |                          |                      |
| 55  | Solution's media management system will provide an Internet Explorer web browser interface to users.   |                          |                      |
| 56  | Solution has the ability to configure user access to the media management database via built in system administrative controls.  |                          |                      |
| 57  | Solution has the ability to automatically command the video servers to delete those assets at the predetermined date and time if the function is enabled.  |                          |                      |
| 58  | Solution's media management tools will provide the ability to assign, delete or add expiration dates and times to individual assets including programs and interstitial assets.  |                          |                      |
| 59  | Solution's media database will be able to continuously and automatically present an accurate representation of assets on the video server even when those assets may have been placed there by independent means (not under the control of the automation system). |                          |                      |

## 2.4 Desired Maintenance Support Services Requirements

### A. Maintenance Support Agreement

The Selected Proposer will be responsible for providing maintenance and support services. Proposer's response shall include their Software Maintenance Support Agreement and include the cost for five (5) two-year periods of optional software maintenance support on a two-year basis, as separate line items, in Form B-1. The Maintenance Support Agreement shall take effect after the Warranty period and starting on the date of Final Acceptance by GIC.

During the term(s) of the Agreement, the selected Proposer will provide software maintenance services and technical support covering the requirements set forth below:

### B. Software Maintenance and Technical Support Services

1. Software must be of the most recent release and all software upgrades issued by the Selected Proposer are to be provided to the County at no additional charge.
2. Periodic updates of the System that may incorporate:
  - A. Corrections of any substantial defects;
  - B. Fixes of any minor bugs; and,
  - C. Fixes due to any conflicts with mandatory operating system security patches, to be resolved as Severity Level 1; and,
  - D. Software upgrades and/or patches
  - E. Unlimited e-mail and/or telephone support
  - F. At the sole discretion of the County, enhancements to the System.
3. Remote Server Access to any County server providing the application services either by VPN, encrypted connection, or dedicated IP address; access will require prior approval from GIC.

## 2.5 Desired Technical Support Services

### Technical Support

1. Help Desk Services
  - A. Live Support for "any issue" available from 7:00 AM – 7:00 PM (ET) Monday through Friday.
  - B. Live Support for "system down issues" available 24 hours a day, 7 days a week.

| Severity   | Definition  | Response Time | Resolution Time | Status Frequency Update |
|------------|---|---------------|-----------------|-------------------------|
| 1=Critical | <p>A major component of the System, whether hardware or software, is in a non-responsive state and severely affects County's productivity or operations.</p> <p>A high impact problem which affects the County.</p> | One (1) Hour  | Four (4) Hours  | One (1) Hour            |

| Severity    | Definition  | Response Time | Resolution Time  | Status Frequency Update |
|-------------|---|---------------|--|-------------------------|
| 2=Urgent    | Any component failure or loss of functionality not covered in Severity 1, that is hindering operations, such as, but not limited to: excessively slow response time; functionality degradation; error messages; backup problems; or issues affecting the use of a module or the data. | Two (2) Hours | Eight (8) Hours  | Two (2) Hours           |
| 3=Important | Lesser issues, questions, or items that minimally impact the work flow or require a work around.  | 4 hours       | Seventy two (72) Hours   | Four (4) Hours          |
| 4=Minor     | Issues, questions, or items that don't impact the work flow.<br><br>Issues that can easily be scheduled such as an upgrade or patch.  | 24 hours      | One (1) Month for an acceptable work around until final resolution | Weekly Status Call      |

## 2.6 Additional Minimum Services

### A. Hardware and Software Requirements

Proposers shall provide recommendation on minimum software and hardware requirements to ensure optimal software performance. Recommendations on software and hardware are to be provided during the selection phase as part of the Proposal Submission Package.

### B. Software Training

The Selected Proposer is required to provide software training for up to ten (10) County employees prior to Final Acceptance. As upgrades and latest versions of the software packages are release, web-based training shall be provided on new or upgraded software features.

## 2.7 Minimum Application Software Licenses

Proposer's proposal submission is to include perpetual software license(s) to accommodate the number of users listed below.

4 concurrent users with unlimited number of installations.

## 2.8 Desired Technical Requirements and Services To Be Provided

Proposers are required to indicate their capability of fulfilling each *DESIRED* system requirement below. Those answers will be prioritized and compared to the capabilities of each of the vendor responses, in order to determine the best solution for Miami-Dade County.

Detailed requirements are presented in questionnaire format to facilitate direct responses and establish accountability regarding delivery of services. In order to respond to each requirement, you are requested to



enter a code in the space provided that best corresponds to your intended response for the requirements listed.

Comments that further clarify how the requirement is met should be included in the Response Comments column as well as your proposal response. The below table is to be included with your Proposal Submission package as further outlined in Section 3.0 "Proposal Submission Package".

The acceptable codes are as follows:

- **F** – Requirement will be FULLY met with the proposed solution (without configuration, extension(s), or modification).
- **C** – Requirement will be met via configuration (without changing base source code in proposed solution).
- **M** – Requirement will be met via modification of the solution.
- **N** – Requirement will not be met and why.

In a few instances, we have posed some open-ended questions in situations where the answer will not be fully met or will not be met response. Please provide an answer to allow Miami-Dade County to properly evaluate your proposal. Miami-Dade County requests that all cross referenced attachments to the proposal follow the order of requirements.

A Proposer awarded a contract as a result of this, agrees to comply with all County requests relating to the verification of compliance to Section 2.0.

| Req. No.                            | Requirement Description  | Response (F,C,M,N) | Response Description |
|-------------------------------------|--|--------------------|----------------------|
| <b><u>GENERAL REQUIREMENTS:</u></b> |  |                    |                      |
| 1                                   | The solution's input/output channels can provide hot swappable in order that channels can be added, replaced or removed from the system without the need for a system shutdown or re-boot  |                    |                      |
| 2                                   | Solution can provide a contained preset control readily available on the media ingest application to cause a video server asset to be transferred to a backup or mirror video server via fibre channel or other transfer capable high-speed interface.   |                    |                      |
| 3                                   | In the event a video server's protocol does not include asset change notification will the proposed solution's media database have the ability to query the server for assets on a scheduled basis.  |                    |                      |
| 4                                   | Solution can provide the capability for custom rules base file transfer as an independent application to allow for the automatic transfer, copy, and/or deletion of assets between and from video servers that are connected by fiber channel of other high-speed clip transfer capable network. |                    |                      |

| Req. No.   | Requirement Description   | Response (F,C,M,N) | Response Description |
|--|---|--------------------|----------------------|
| 5  | Solution can allow customer to defined rules for mirroring of assets as well as specific movement or deletion of assets based on clip names, dates and times, and other clip related information.                 |                    |                      |
| <b><u>TRAFFIC INTERFACE</u></b>                              |   |                    |                      |
| 6  | Solution's traffic interface can provide translation from the traffic system such that all events in each program schedule contain the proper information for play to air without any subsequent editing.         |                    |                      |
| 7  | Solution's interface can allow equipment name changes or change of default selections to be readily accommodated with no interruptions to the "on-air" channel control system or device control system operation. |                    |                      |
| 8  | Solution can provide a play multi format Standard Definition (SD) files, with the option to play High-Definition (HD).  |                    |                      |
| 9  | Solution can provide a "confidence" monitor to ensure it is receiving proper audio/video signal.  |                    |                      |
| 10   | Solution can have the ability to control Harris Platinum Routers.   |                    |                      |
| <b><u>VIDEO SYSTEM REQUIREMENTS: REAL-TIME MEDIA I/O</u></b> |   |                    |                      |
| 11   | Solution's Input/Output control can be via Ethernet, RS422 and be compatible with VDCP, BVW, AVC protocols over RS-422.   |                    |                      |
| <b><u>SYSTEM FUNCTION: STORAGE</u></b>                       |   |                    |                      |
| 12   | Solution can expand to a minimum of 3TB usable storage (not counting RAID overhead) with no need for switches, hubs, or external storage devices.   |                    |                      |
| <b><u>TECHNICAL SUPPORT</u></b>                              |   |                    |                      |

| Req. No.  | Requirement Description   | Response (F,C,M,N) | Response Description |
|---|---|--------------------|----------------------|
| 13  | Solution is capable of storing metadata information such that a facility database is not needed for execution.  |                    |                      |
| <b><u>"ON-AIR" CHANNEL CONTROL USER INTERFACE</u></b> |   |                    |                      |
| 14  | Solution's channel control interface can control 8 simultaneous program channels.   |                    |                      |
| 15  | Solution's event start can select manual, clock, or follow.   |                    |                      |
| 16  | Solution can support multiple secondary events and allow them to be referenced with an offset time to the start or end of the primary event that they are associated with.  |                    |                      |
| <b><u>"ON-AIR" CHANNEL CONTROL USER INTERFACE</u></b> |   |                    |                      |
| 17  | Solution can provide an off-line or emergency method of operation where a channel is designated to allow manual operation of the program switcher and write to the as-run log while allowing the primary channel to continue to execute events. |                    |                      |
| 18  | Solution can contain nine user definable bins on screen for ready access to custom lists or single events.<br>"Drag & drop" functionality exist to allow the content of any bin to be inserted at any point on the play-list.                   |                    |                      |
| 19  | Solution's screen layouts can be user definable to include arranging the order and labeling of event fields; as well as which fields are to be displayed.   |                    |                      |
| 20  | Solution's linked channel operation can be supported such that one channel may be designated as Master and one or more channels designated slaves.  |                    |                      |
| 21  | Solution can operate such that all events in the schedule allow assignment of a primary and backup video source to that event and have both sources controlled in sync.   |                    |                      |

| Req. No.                                  | Requirement Description   | Response (F,C,M,N) | Response Description |
|---|---|--------------------|----------------------|
| 22  | Solution can operate such that the operator is able to switch between primary and backup sources easily.  |                    |                      |
| <b><u>DEVICE CONTROL</u></b>              |   |                    |                      |
| 23  | Solution can operate such that the source and destination allow selection of control of video servers, BVW protocol Video Tape Recorders (VTR), "catch" or "edge" servers providing commercial and other content. |                    |                      |
| 24  | Solution can include onscreen selection of a "jog" and "shuttle" function for VTR transports.   |                    |                      |
| <b><u>AUTOMATIC PROGRAM RECORDING</u></b> |   |                    |                      |
| 25  | Solution allows recording to a primary and secondary destination device simultaneously using a single event.<br>These devices must include video servers and VTRs.  |                    |                      |
| 26  | Solution's orders can include the run date and time for programs and provide the option to automatically delete programs at a determined time after the run time.   |                    |                      |
| 27  | Solution's record operations will allow entry of a backup record destination.   |                    |                      |
| 28  | Solution can operate such that a unique name is automatically generated for each occurrence of a recurring program such that the date is included with a user entered prefix string.                              |                    |                      |

## 2.9 **Testing & Implementation**

Software testing and implementation will be conducted by Contractor's Technical Support staff. The Contractor shall provide a test and implementation plan. The Contractor's Technical Support shall provide implementation and materials as well as live support.

## 2.10 **Payment Schedule**

Payment by the County to the selected Proposer will be based on the successful completion of Project Milestones. The County's acceptance of each project milestone will be at the County's sole discretion and negotiated with the successful Proposer based on project methodology and schedule.

### 3.0 RESPONSE REQUIREMENTS

#### 3.1 SUBMITTAL REQUIREMENTS

In response to this Solicitation, Proposer should return the entire completed Proposal Submission Package (see attached). Proposers should carefully follow the format and instructions outlined therein. All documents and information must be fully completed and signed as required.

The proposal shall be written in sufficient detail to permit the County to conduct a meaningful evaluation of the proposed services. However, overly elaborate responses are not requested or desired.

It is recommended that proposals be submitted on double-sided pages in an effort to support Green Purchasing.

### 4.0 EVALUATION PROCESS

#### 4.1 Review of Proposals for Responsiveness

Each proposal will be reviewed to determine if the proposal is responsive to the submission requirements outlined in this Solicitation. A responsive proposal is one which follows the requirements of this Solicitation, includes all documentation, is submitted in the format outlined in this Solicitation, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may result in the proposal being deemed non-responsive.

#### 4.2 Evaluation Criteria

Proposals will be evaluated by a Review Team which will evaluate and rank proposals on criteria listed below and assess how well the proposal submission meets the technical requirements outlined in Section 2.0, "Scope of Services." The Review Team will be comprised of appropriate County personnel and members of the community, as deemed necessary, with the appropriate experience and/or knowledge. The criteria are itemized with their respective weights for a maximum total of one hundred (100) points per Review Team member.

| <u>Technical Criteria</u>   | <u>Points</u> |
|---|---------------|
| 1. Proposer's relevant experience, qualifications, and past performance.<br>Company's vision, fit, financial stability, product roadmap, etc.   | 25            |
| 2. Relevant experience and qualifications of key personnel, including<br>key personnel of subcontractor(s), that will be assigned to this project,<br>and experience and qualifications of subcontractors.  | 10            |
| 3. Proposer's approach to providing the services requested in this<br>solicitation. Proposer's implementation service and support capabilities<br>including: implementation, documentation, data migration, training,<br>project planning, maintenance, and warranty. | 25            |
| 4. Proposer's ability to meet the technical and functional requirements<br>as outlined in Section 2.4, "Desired Technical Functionalities and<br>Services to Be Provided and Section 2.8, "Desired Technical<br>Requirements and Services To Be Provided."            | 30            |
| <u>Price Criteria</u>   |               |
| 5. Proposed price will be evaluated based on the overall best<br>Value to the County  | 10            |

---

**Total Points Per Review Team Member:****100**

---

#### **4.3 Oral Presentations**

Upon completion of the technical criteria evaluation indicated above, rating and ranking, the Review Team may choose to conduct an oral presentation with the Proposer(s) which the Review Team deems to warrant further consideration based on, among other considerations, scores in clusters and/or maintaining competition. (See **Form A-2** regarding registering speakers in the proposal for oral presentations). Upon completion of the oral presentation(s), the Review Team will re-evaluate, re-rate and re-rank the proposals remaining in consideration based upon the written documents combined with the oral presentation.

#### **4.4 Selection Factor**

This Solicitation includes a selection factor for Miami-Dade County Certified Small Business Enterprises (SBE's) as follows. A SBE/Micro Business Enterprise is entitled to receive an additional ten percent (10%) of the total technical evaluation points on the technical portion of such Proposer's proposal. An SBE/Micro Business Enterprise must be certified by the Department of Small Business Development for the type of goods and/or services the Proposer provides in accordance with the applicable Commodity Code(s) for this Solicitation. For certification information contact the Department of Small Business Development at (305) 375-3111 or access [www.miamidade.gov/sba](http://www.miamidade.gov/sba). The SBE/Micro Business Enterprise must be certified by proposal submission deadline, at contract award, and for the duration of the contract to remain eligible for the preference. Firms that graduate from the SBE program during the contract may remain on the contract.

#### **4.5 Local Certified Service-Disabled Veteran's Business Enterprise Preference**

This Solicitation includes a preference for Miami-Dade County Local Certified Service-Disabled Veteran Business Enterprises in accordance with Section 2-8.5.1 of the Code of Miami-Dade County. A VBE is entitled to receive an additional five percent (5%) of the total technical evaluation points on the technical portion of such Proposer's proposal. If a Miami-Dade County Certified Small Business Enterprise (SBE) measure is being applied to this Solicitation, a VBE which also qualifies for the SBE measure shall not receive the veteran's preference provided in this section and shall be limited to the applicable SBE preference.

#### **4.6 Price Evaluation**

The price proposal will be evaluated subjectively in combination with the technical proposal, including an evaluation of how well it matches Proposer's understanding of the County's needs described in this Solicitation, the Proposer's assumptions, and the value of the proposed services. The pricing evaluation is used as part of the evaluation process to determine the highest ranked Proposer. The County reserves the right to negotiate the final terms, conditions and pricing of the contract as may be in the best interest of the County.

#### **4.7 Local Preference**

The evaluation of competitive solicitations is subject to Section 2-8.5 of the Miami-Dade County Code, which, except where contrary to federal or state law, or any other funding source requirements, provides that preference be given to local businesses (see **Form A-4**). If, following the completion of final rankings by the Review Team, a non-local Proposer is the highest ranked responsive and responsible Proposer, and the ranking of a responsive and responsible local Proposer is within 5% of the ranking obtained by said non-local Proposer, then the Review Team will recommend that a contract be negotiated with said local Proposer.

#### **4.8 Negotiations**

The County may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the Proposer's best terms from a monetary and technical standpoint.

The Review Team will evaluate, score and rank proposals, and submit the results of their evaluation to the County Manager with their recommendation. The County Manager or designee will determine with which Proposer(s) the County shall negotiate, if any, taking into consideration the Local Preference Section above. In his sole discretion, the County Manager or designee may direct negotiations with the highest ranked Proposer, negotiations with multiple Proposers, or may request best and final offers (BAFO).

Notwithstanding the foregoing, if the County and said Proposer(s) cannot reach agreement on a contract, the County reserves the right to terminate negotiations and may, at the County Manager's or designee's discretion, begin negotiations with the next highest ranked Proposer(s). This process may continue until a contract acceptable to the County has been executed or all proposals are rejected. No Proposer shall have any rights against the County arising from such negotiations or termination thereof.

Any Proposer recommended for negotiations shall:

- a) Complete a Collusion Affidavit, in accordance with Sections 2-8-1.1 and 10-33.1 of the Miami-Dade County Code as amended by Ordinance 08-113. (If a Proposer fails to submit the required Collusion Affidavit, said Proposer shall be ineligible for award.)

Any Proposer recommended for negotiations may be required to provide to the County:

- a) Its most recent certified business financial statements as of a date not earlier than the end of the Proposer's preceding official tax accounting period, together with a statement in writing, signed by a duly authorized representative, stating that the present financial condition is materially the same as that shown on the balance sheet and income statement submitted, or with an explanation for a material change in the financial condition. A copy of the most recent business income tax return will be accepted if certified financial statements are unavailable.
- b) Information concerning any prior or pending litigation, either civil or criminal, involving a governmental agency or which may affect the performance of the services to be rendered herein, in which the Proposer, any of its employees or subcontractors is or has been involved within the last three years.

#### **4.9 Contract Award**

Any contract, resulting from this Solicitation, will be submitted to the County Manager or designee for approval. All Proposers will be notified in writing when the County Manager or designee makes an award recommendation. The Contract award, if any, shall be made to the Proposer whose proposal shall be deemed by the County to be in the best interest of the County. Notwithstanding the rights of protest listed below, the County's decision of whether to make the award and to which Proposer shall be final.

#### **4.10 Rights of Protest**

- A. A recommendation for contract award or rejection of all proposals may be protested by a Proposer in accordance with the procedures contained in Sections 2-8.3 and 2-8.4 of the County Code, as amended, and as established in Implementing Order No. 3-21.
- B. A written intent to protest shall be filed with the Clerk of the Board and mailed to all participants in the competitive process and to the County Attorney within three (3) County workdays of the filing of the County Manager's recommendation. This three day period begins on the County workday after the filing of the County Manager's recommendation. Such written intent to protest shall state the particular grounds on which it is based and shall be accompanied by a filing fee as detailed in Para C below.

- C. The written intent to protest shall be accompanied by a non-refundable filing fee, payable to the Clerk of the Board, in accordance with the schedule provided below:

| <b><u>Award Amount</u></b> | <b><u>Filing Fee</u></b> |
|----------------------------|--------------------------|
| \$25,000-\$250,000         | \$500                    |
| \$250,001-\$500,000        | \$1,000                  |
| \$500,001-\$5 million      | \$3,000                  |
| Over \$5 million           | \$5,000                  |

- D. For award recommendations greater than \$250,000, the County's recommendation to award or reject will be immediately communicated (via mail, fax or e-mail) to all participants in the competitive process and filed with the Clerk of the Board.
- E. For award recommendations from \$25,000 to \$250,000, recommendations to award or reject will be posted on the Department of Procurement Management website.

Any question, issue, objection or disagreement concerning, generated by, or arising from the published requirements, terms, conditions or processes contained or described in the solicitation document shall be deemed waived by the protester and shall be rejected as a basis for a protest unless it was brought by that Proposer to the attention, in writing, of the procurement agent, buyer, contracting officer or other contact person in the County department that issued the solicitation document, at least two working days (not less than 48 hours) prior to the hour of the due date for proposal submission.

## **5.0 TERMS AND CONDITIONS**

The anticipated form of agreement is attached. The terms and conditions summarized below are of special note and can be found in their entirety in the agreement:

### **A. Vendor Registration**

Prior to being recommended for award, the Proposer shall complete a Miami-Dade County Vendor Registration Package. Effective June 1, 2008, the new Vendor Registration Package, including a Uniform Affidavit Packet (Affidavit form), must be completed. The Vendor Registration Package, including all affidavits can be obtained by downloading from the DPM website at [www.miamidade.gov](http://www.miamidade.gov) or from the Vendor Assistance Unit at 111 N.W. 1st Street, 13th Floor, Miami, FL. The recommended Proposer shall affirm that all information submitted with its Vendor Registration Package is current, complete and accurate, at the time they submitted a response to the Solicitation, by completing an Affirmation of Vendor Affidavit form.

### **B. Insurance Requirements**

The Contractor shall furnish to the County, Department of Procurement Management, prior to the commencement of any work under any agreement, Certificate(s) of Insurance which indicate insurance coverage has been obtained that meets the stated requirements.

### **C. Inspector General Reviews**

According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise indicated. The cost of the audit, if applicable, shall be one quarter (1/4) of one (1) percent of the total contract amount and the cost shall be included in any proposed price. The audit cost will be deducted by the County from progress payments to the Contractor, if applicable.

### **D. User Access Program**

Pursuant to Miami-Dade County Ordinance No. 03-192, any agreement issued as a result of this Solicitation is subject to a user access fee under the County User Access Program (UAP) in the amount of two percent (2%).



All sales resulting from this Solicitation and the utilization of the County contract price and the terms and conditions identified therein, are subject to the two percent (2%) UAP.

**6.0 ATTACHMENTS**

Proposal Submission Package  
Form B-1 – Price Proposal Schedule  
Forms A-1 through A-6  
Draft Form of Agreement

DRAFT

**PROPOSAL SUBMISSION PACKAGE**

**REQUEST FOR PROPOSALS  
EPP-RFP No.740**

**AUTOMATED PLAYOUT SYSTEM**

**PROPOSAL SUBMISSION PACKAGE**  
**Request for Proposals (EPP-RFP) No. 740**  
**AUTOMATED PLAYOUT SYSTEM**

In response to the Solicitation, Proposer shall **RETURN THIS ENTIRE PACKAGE** completed as follows:

**1. Form A-1, Cover Page of Proposal**

Complete and sign (by Proposer or representative of the Proposer who is legally authorized to enter into a contractual relationship in the name of the Proposer) as required.

**2. Proposer Information**

Complete the Proposer Information section following the requirements therein.

Note: The Proposer Information document is available in an electronic format (Word) by submitting a written request via e-mail to the County contact person for this Solicitation.

**3. Affidavits/Acknowledgements**

Complete and sign the following forms:

Form A-2, Lobbyist Registration for Oral Presentations

Form A-3, Acknowledgement of Addenda

Form A-4, Local Business Preference

Form A-5, Proposer's Disclosure of Subcontractors and Suppliers

Form A-6, Fair Subcontracting Policies

**4. Form B-1, Price Proposal Schedule**

Complete and sign (by Proposer or representative of the Proposer who is legally authorized to enter into a contractual relationship in the name of the Proposer) as required.

**5. Proposal Submission**

Submit in hardcopy format an unbound original, complete Proposal Submission Package and seven (7) copies of the complete package (for a total of eight Proposals) **by the Proposal Due Date** (see front cover of Solicitation) in a sealed envelope/container. Proposers are requested to submit an electronic version of the Proposal in PDF format or equivalent. The electronic version shall also be submitted with the unbound originals as appropriate. Electronic media submitted may be either a Compact Disk (CD) or USB Flash Drive and shall bear a label on the outside containing the RFP number and name, the name of the Proposer. All electronic media submitted to the County will not be returned to the Proposer.

**Proposer's Name**

**Proposer's Address**

**Proposer's Telephone Number**

**Clerk of the Board**

**Stephen P. Clark Center**

**111 NW 1st Street, 17th Floor, Suite 202**

**Miami, FL 33128-1983**

**EPP-RFP No.: 740**

**RFP Title: Automated Playout System**

**Proposal Due Date: Thursday, July 14, 2010 @ 2:00 PM (local time)**

## **PROPOSAL FORMAT**

### Cover Page

The attached **Form A-1** is to be used as the cover page for the Technical Proposal. This form must be fully completed and signed by an authorized officer of the Proposer submitting the proposal.

### Table of Contents

The table of contents should outline in sequential order the major areas of the proposal. All pages of the proposal, including the enclosures, must be clearly and consecutively numbered and correspond to the table of contents.

### Executive Summary

Provide a brief summary describing:

- a) the Proposer's ability to perform the work requested in this Solicitation;
- b) a history of the Proposer's background and experience in providing similar services;
- c) the qualifications of the Proposer's personnel to be assigned to this project;
- d) any other information called for by this Solicitation which the Proposer deems relevant, including any exceptions to this Solicitation.

This summary should be brief and concise to advise the reader of the basic services offered, experience and qualifications of the Proposer, staff, subcontractors or subconsultants and any other relevant information.

## **TECHNICAL FUNCTIONALITIES**

1. Proposers shall provide documentation that demonstrates their ability to satisfy all of the technical requirements as specified in Section 2.0 – Scope of Services.
2. Describe project plan, methodology, and recommended solution(s) in performing the services described in the Scope of Services (**see Section 2.0**), and describe Proposer's specific policies, plans, procedures or techniques to be used in providing the services to be performed.
3. Describe in detail the project plan, implementation methodology, maintenance support, and reporting methods.
4. Provide a project schedule that identifies all the project phases, key tasks per phase and their duration, as well as the key milestones.
5. Provide screen shots and samples of standard reports in proposed system.

## **PROPOSER'S BACKGROUND, EXPERIENCE AND PAST PERFORMANCE**

6. Describe the Proposer's past performance and experience and state the number of years that the Proposer has been in existence, the current number of employees, and the primary markets served.
7. Provide a detailed description of comparable contracts (similar in scope of services to those requested herein) which the Proposer has either ongoing or completed within the past three years. The description should identify for each project: (i) client, (ii) description of work, (iii) total dollar value of the contract, (iv) dates covering the term of the contract, (v) client contact person and phone number, (vi). Where possible, list and describe those projects performed for government clients or similar size private entities (excluding any work performed for the County).

## **KEY PERSONNEL PERFORMING SERVICES**

8. Describe the experience, qualifications and other vital information, including relevant experience on previous similar projects, of all key personnel who will be assigned to this project

**Note: After proposal submission, but prior to the award of any contract issued as a result of this Solicitation, the Proposer has a continuing obligation to advise the County of any changes, intended or otherwise, to the key personnel identified in its proposal.**

### **PROPOSED APPROACH TO PROVIDING THE SERVICES**

9. Describe Proposer's project plan, methodology and recommended solutions in performing the services described in the Scope of Services (**see Section 2.0**).
10. Describe Proposer's approach to project organization and management, responsibilities of Proposer's management and staff personnel that will perform work in this project.
11. Identify if Proposer has taken any exception to the terms of this Solicitation. If so, indicate what alternative is being offered and the cost implications of the exception(s).
12. Provide breakdown of number of hours and description of level of software customization that will be required per functional requirement in order to meet the requirements defined in the Scope of Services (Section 2.0).
13. Provide description of anything (functionality, software, or hardware) not identified in the RFP that will be required to make Proposed Solution meet the Scope of Services.
14. Explain in detail how data integrity is maintained in your application (ie. orphans, etc.).
15. Provide all hardware and/or equipment recommendations to achieve optimal performance for the Proposed Solution as well as meet the requirements defined in Section 2.0, "Scope of Services."
16. Identify if Proposer has taken any exception to the terms of this Solicitation and the draft form of agreement. If so, indicate what alternative is being offered and the cost implications of the exception(s) if applicable.
17. Provide the details of technical support and help desk services, and present it in a format similar as in Section 2.5, "Desired Technical Support Services."

### **TRAINING**

18. Provide a detailed description of training courses that are offered as part of the Proposal to the County. Provide the recommended number of on-line training hours, as well as any other type of training, including, but not limited to on-line tutorials, web seminar training (if available), training documentation, etc.
19. Provide an itemized training plan to describe the methodology, facilities, and levels and types of training required. Training prices must be all inclusive and presented as one total price without separate per diem charges for the trainer's travel, room and board. An option for "train the trainer" approach including materials for further rollouts should be included.
20. Proposers must specify the types of training they will provide, the number of hours of training that will be given, and the number of staff to be trained based upon their assessment of the amount of training needed to meet adequate training requirements. Pricing for training, including materials, personnel and hours must be included as part of the Proposer's proposal response on Form B-1.

### **PROPOSED PRICE FOR ON AUTOMATED PLAYOUT SYSTEM**

21. The Proposer's price shall be submitted on Form B-1, "Price Proposal Schedule."

**FORM B-1**

**PRICE PROPOSAL SCHEDULE – EPP-RFP No. 740**

**AUTOMATED PLAYOUT SYSTEM**

**Form B-1**  
**Price Proposal Schedule**  
**AUTOMATED PLAYOUT SYSTEM**

**INSTRUCTIONS:**

The Proposer's price shall be submitted on this Form B-1 "Price Proposal Schedule". Proposer is requested to fill in the applicable blanks on this form. Additional sheets may be added as applicable.

**A. PROPOSED PRICE**

The Proposer shall state its price for providing all minimum and desired services as stated in Section 2.0 - Scope of Services. Optional services as stated in Section 2.0 - Scope of Services are to be provided further down in its own section.

**TOTAL PROPOSED PRICE FOR AN AUTOMATED PLAYOUT SYSTEM FOR THE INITIAL THREE (3) YEAR TERM:**

\$ \_\_\_\_\_

Note: A payment schedule will be negotiated with the selected Proposer and based upon project milestones and deliverables (e.g., training, County's final acceptance of deliverables, etc.)

**B. BREAKDOWN OF PROPOSED PRICE**

The Proposer shall provide a breakdown of the "Proposed Price" stated Section A, above, as provided for in the tables below. Items that are not applicable shall be identified as "N/A"; items that are at no charge to the County shall be identified as "N/C".

| DESCRIPTION  | PRICE                 |
|--|-----------------------|
| Hardware   | \$                    |
| Software License Fee   | \$                    |
| Warranty   | \$                    |
| Testing & Implementation   | \$                    |
| Software Escrow Agreement ( <i>Initial Contract Term</i> )   | \$                    |
| Training up to 3-4 (1 train the trainer) County Employees<br>( <i>Please provide detailed cost breakdown below</i> ) | \$                    |
| Travel   | \$                    |
| Additional Costs and Fees ( <i>Please list and add additional sheets as necessary</i> )                              | \$                    |
| Maintenance and Technical Support Service Fees (Initial Contract Term)   |                       |
| Maintenance and Technical Support Fees Year 1  | N/A – Warranty Period |

|   |           |
|---|-----------|
| Maintenance and Technical Support Fees Year 2 | \$        |
| Maintenance and Technical Support Fees Year 3 | \$        |
| <b>Total Proposed Price*</b>                  | <b>\$</b> |

**\* Note: Total Proposed Price shall be equal to the Proposed Price stated in Section A above.**

### **Price Breakdown for Hardware**

The Proposer should itemize all hardware that will need to be purchased to make the proposed Solution operate according to the specifications in Section 2.0 of this RFP. Please provide manufacturer and model numbers for all hardware as applicable.

| <b>PRICE BREAKDOWN FOR HARDWARE</b> |                        |  |                |                   |                                       |
|-------------------------------------|------------------------|--|----------------|-------------------|---------------------------------------|
| <b>Hardware</b>                     | <b>Number of Units</b> | <b>Manufacturer<br/>(Including CPU<br/>Size and Operating<br/>System Version, if<br/>Applicable)</b> | <b>Model #</b> | <b>Unit Price</b> | <b>Extended<br/>Price /<br/>Total</b> |
|                                     |                        |  |                |                   |                                       |
|                                     |                        |  |                |                   |                                       |
|                                     |                        |  |                |                   |                                       |
|                                     |                        |  |                |                   |                                       |
|                                     |                        |  |                |                   |                                       |
|                                     |                        |  |                |                   |                                       |
|                                     |                        |  |                |                   |                                       |
|                                     |                        |  |                |                   |                                       |
|                                     |                        |  |                |                   |                                       |
| <b>Total:</b>                       |                        |  |                |                   |                                       |
| <b>GRAND TOTAL :</b>                |                        |  |                |                   |                                       |



| PRICE BREAKDOWN FOR SOFTWARE |          |            |                        |
|------------------------------|----------|------------|------------------------|
| Software                     | Quantity | Unit Price | Extended Price / Total |
|                              |          |            |                        |
|                              |          |            |                        |
|                              |          |            |                        |
| Total for Software:          |          |            | \$                     |

| PRICE BREAKDOWN FOR TESTING & IMPLEMENTATION |                   |                      |                         |
|--|-------------------|----------------------|-------------------------|
| Position                                     | Anticipated Hours | Proposed Hourly Rate | Total<br>(Hours x Rate) |
|  |                   | \$                   | \$                      |
|  |                   | \$                   | \$                      |
|  |                   | \$                   | \$                      |
|  |                   | \$                   | \$                      |
|  |                   |                      |                         |
| Other  | Description       |                      |                         |
|  |                   |                      | \$                      |
|  |                   |                      | \$                      |
|  |                   |                      |                         |
| Total for Implementation:                    |                   |                      | \$                      |

| PRICE BREAKDOWN FOR SOFTWARE ESCROW INITIAL CONTRACT TERM (3 YEARS) |            |                        |
|---|------------|------------------------|
| Escrow  | Unit Price | Extended Price / Total |
|   | \$         | \$                     |

| PRICE BREAKDOWN FOR TRAINING |                   |                      |                         |
|------------------------------|-------------------|----------------------|-------------------------|
| Position                     | Anticipated Hours | Proposed Hourly Rate | Total<br>(Hours x Rate) |
|                              |                   | \$                   | \$                      |
|                              |                   | \$                   | \$                      |
|                              |                   | \$                   | \$                      |

|                     |             |    |    |
|---------------------|-------------|----|----|
|                     |             | \$ | \$ |
|                     |             |    |    |
| Other               | Description |    |    |
|                     |             |    | \$ |
|                     |             |    | \$ |
|                     |             |    |    |
| Total for Training: |             |    | \$ |

### C. OPTIONAL MAINTENANCE AND TECHNICAL SUPPORT SERVICES

The Proposer shall state its price for providing all Optional Services and related services as provided for in the table below. **These prices should not be included in the Proposer's Total Proposed Price.** Unless otherwise negotiated by County and Contractor, these rates will remain in effect for the duration of any contract issued as a result of this RFP, including any option-to-renew periods.

At the County's sole option, the payment of maintenance and support services including subsequent renewals and payment by the County will be limited to individual twelve month terms (TABLE A).

**TABLE A: OPTIONAL YEARS TO RENEW (OTR) FEE SCHEDULE - 12 MONTH TERM**

| Description  | Annual Payment<br>(12 Month) Fee | Total per OTR |
|--|----------------------------------|---------------|
| OTR 1 - Ongoing Maintenance and Technical Support Service Fees - Year 4  | \$                               |               |
| OTR 1 - Ongoing Maintenance and Technical Support Service Fees - Year 5  | \$                               | \$            |
| OTR 2 - Ongoing Maintenance and Technical Support Service Fees - Year 6  | \$                               |               |
| OTR 2 - Ongoing Maintenance and Technical Support Service Fees - Year 7  | \$                               | \$            |
| OTR 3 - Ongoing Maintenance and Technical Support Service Fees - Year 8  | \$                               |               |
| OTR 3 - Ongoing Maintenance and Technical Support Service Fees - Year 9  | \$                               | \$            |
| OTR 4 - Ongoing Maintenance and Technical Support Service Fees - Year 10 | \$                               |               |
| OTR 4 - Ongoing Maintenance and Technical Support Service Fees - Year 11 | \$                               | \$            |
| OTR 5 - Ongoing Maintenance and Technical Support Service Fees - Year 12 | \$                               |               |
| OTR 5 - Ongoing Maintenance and Technical Support Service Fees - Year 13 | \$                               | \$            |

**TABLE B: OPTIONAL YEARS TO RENEW (OTR) FEE SCHEDULE - 24 MONTH TERM**

At the County's sole option, the payment of maintenance and support services including subsequent renewals and payment by the County will be limited to individual twenty four month terms (TABLE B).

| Description  | Annual (12 Month) Fee | Bi-Annual Payment (24 Month) Fee |
|--|-----------------------|----------------------------------|
| OTR 1 - Ongoing Maintenance and Technical Support Service Fees - Year 4  | \$                    |                                  |
| OTR 1 - Ongoing Maintenance and Technical Support Service Fees - Year 5  | \$                    | \$                               |
| OTR 2 - Ongoing Maintenance and Technical Support Service Fees - Year 6  | \$                    |                                  |
| OTR 2 - Ongoing Maintenance and Technical Support Service Fees - Year 7  | \$                    | \$                               |
| OTR 3 - Ongoing Maintenance and Technical Support Service Fees - Year 8  | \$                    |                                  |
| OTR 3 - Ongoing Maintenance and Technical Support Service Fees - Year 9  | \$                    | \$                               |
| OTR 4 - Ongoing Maintenance and Technical Support Service Fees - Year 10 | \$                    |                                  |
| OTR 4 - Ongoing Maintenance and Technical Support Service Fees - Year 11 | \$                    | \$                               |
| OTR 5 - Ongoing Maintenance and Technical Support Service Fees - Year 12 | \$                    |                                  |
| OTR 5 - Ongoing Maintenance and Technical Support Service Fees - Year 13 | \$                    | \$                               |

#### **D. OPTIONAL PROFESSIONAL SERVICES**

The Proposer shall state its price for providing all Optional Professional Services and other related services as provided for in the table below. These prices should not be included in the Proposer's Total Proposed Price. Unless otherwise negotiated by County and Contractor, these rates will remain in effect for the duration of any contract issued as a result of this RFP, including any option-to-renew periods.

Proposer must provide rates for disciplines of its personnel for any additional services requested by County which are not part of this Scope of Services, but may become necessary at a later time.

| SERVICE                | PROPOSED RATE PER HOUR |
|------------------------|------------------------|
| Project Manager        | \$                     |
| Developer              | \$                     |
| Web Developer          | \$                     |
| Trainer                | \$                     |
| System Administrator   | \$                     |
| Database Administrator | \$                     |
| Other                  |                        |

Notes: Compensation to the selected Consultant for Additional Services shall be based on the projects assigned. The selected Proposer shall use agreed upon hourly rates to calculate the not-to-exceed cost statement required for each project.

#### **E. OPTIONAL SOFTWARE ESCROW SERVICES**

The Proposer shall state its fees for providing all Optional Software Escrow Services as provided for in the table below. **These fees should not be included in the Proposer's Total Proposed Price.** Unless otherwise negotiated by County and Contractor, these fees will remain in effect for the duration of any contract issued as a result of this RFP, including any option-to-renew periods.

Proposer must provide the complete cost for placing the software products in escrow with a third party agent. The escrow cost(s) shall be stated in the tables below for the initial contract term and option-to-renew- years.

| <b>PRICE BREAKDOWN FOR SOFTWARE ESCROW OPTIONAL YEARS TO RENEW (OTR)</b> |                                      |                      |
|--|--------------------------------------|----------------------|
| <b>Description</b>   | <b>Annual Payment (12 Month) Fee</b> | <b>Total per OTR</b> |
| OTR 1 – Escrow Fees- Year 4  | \$                                   |                      |
| OTR 1 - Escrow Fees- Year 5  | \$                                   | \$                   |
| OTR 2 - Escrow Fees - Year 6   | \$                                   |                      |
| OTR 2 - Escrow Fees- Year 7  | \$                                   | \$                   |
| OTR 3 - Escrow Fees - Year 8   | \$                                   |                      |
| OTR 3 - Escrow Fees - Year 9   | \$                                   | \$                   |
| OTR 4 - Escrow Fees - Year 10  | \$                                   |                      |
| OTR 4 - Escrow Fees - Year 11  | \$                                   | \$                   |
| OTR 5 - Escrow Fees - Year 12  | \$                                   |                      |
| OTR 5 - Escrow Fees - Year 13  | \$                                   | \$                   |

#### **F. OPTIONAL SOFTWARE LICENSES**

| <b>Additional Licenses</b> |    |
|----------------------------|----|
| Additional Licenses        | \$ |

#### **G. COUNTY USER ACCESS PROGRAM (UAP)**

Joint purchase and entity revenue sharing program

For the County's information, the Proposer is requested to indicate, at '1' and '2' below, its general interest in participating in the Joint Purchase Program of the County User Access Program (UAP) described in Section 1.0 of this Solicitation. Vendor participation in the Joint Purchase portion of the UAP is **voluntary**, and the Proposer's expression of general interest in '1' and '2' below is for the County's information only and **shall not be binding** on the Proposer.

1. If awarded a contract as a result of this Solicitation, would Proposer be interested in participating in the Joint Purchase portion of the UAP with respect to other governmental, quasi-governmental or not-for-profit entities located **within** the geographical boundaries of Miami-Dade County?

Yes\_\_\_ No\_\_\_

and

2. If awarded a contract as a result of this Solicitation, would Proposer be interested in participating in the Joint Purchase portion of the UAP with respect to other governmental, quasi-governmental, or not-for-profit entities located **outside** the geographical boundaries of Miami-Dade County?

Yes\_\_ No\_\_

Proposer: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

Federal Employer Identification Number: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_

E-Mail: \_\_\_\_\_

**FORMS A-1 THROUGH A-6**

## Form A-1

**PROPOSER'S NAME** (Name of firm, entity or organization):**FEDERAL EMPLOYER IDENTIFICATION NUMBER:****NAME AND TITLE OF PROPOSER'S CONTACT PERSON:**

Name:

Title:

**MAILING ADDRESS:**

Street Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

**TELEPHONE:**

(\_\_\_\_) \_\_\_\_\_

**FAX:**

(\_\_\_\_) \_\_\_\_\_

**E-MAIL ADDRESS:****PROPOSER'S ORGANIZATIONAL STRUCTURE:**

\_\_\_\_ Corporation      \_\_\_\_ Partnership      \_\_\_\_ Proprietorship      \_\_\_\_ Joint Venture

\_\_\_\_ Other (Explain): \_\_\_\_\_

**IF CORPORATION,**

Date Incorporated/Organized: \_\_\_\_\_

State Incorporated/Organized: \_\_\_\_\_

States registered in as foreign corporation: \_\_\_\_\_

**PROPOSER'S SERVICE OR BUSINESS ACTIVITIES OTHER THAN WHAT THIS SOLICITATION REQUESTS FOR:****LIST NAMES OF PROPOSER'S SUBCONTRACTORS OR SUBCONSULTANTS FOR THIS PROJECT:****CRIMINAL CONVICTION DISCLOSURE:**

Pursuant to Miami-Dade County Ordinance No. 94-34, any individual who has been convicted of a felony during the past ten years and any corporation, partnership, joint venture or other legal entity having an officer, director, or executive who has been convicted of a felony during the past ten years shall disclose this information prior to entering into a contract with or receiving funding from the County.

☐ Place a checkmark here only if Proposer has such conviction to disclose to comply with this requirement.

**PROPOSER'S AUTHORIZED SIGNATURE**

The undersigned hereby certified that this proposal is submitted in response to this solicitation.

Signed By: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

**Form A-2**  
**AFFIDAVIT OF MIAMI-DADE COUNTY**  
**LOBBYIST REGISTRATION FOR ORAL PRESENTATION**

(1) Project Title: \_\_\_\_\_ Project No.: \_\_\_\_\_

(2) Department: \_\_\_\_\_

(3) Proposer's Name: \_\_\_\_\_

Address: \_\_\_\_\_ Zip: \_\_\_\_\_

Business Telephone: (\_\_\_\_) \_\_\_\_\_

**(4) List All Members of the Presentation Team Who Will Be Participating in the Oral Presentation:**

| NAME  | TITLE | EMPLOYED BY | TEL. NO. |
|-------|-------|-------------|----------|
| _____ | _____ | _____       | _____    |
| _____ | _____ | _____       | _____    |
| _____ | _____ | _____       | _____    |
| _____ | _____ | _____       | _____    |
| _____ | _____ | _____       | _____    |
| _____ | _____ | _____       | _____    |
| _____ | _____ | _____       | _____    |
| _____ | _____ | _____       | _____    |
| _____ | _____ | _____       | _____    |

(ATTACH ADDITIONAL SHEET IF NECESSARY)

**The individuals named above are Registered and the Registration Fee is not required for the Oral Presentation ONLY.**

Any person who appears as a representative for an individual or firm for an oral presentation before a County certification, evaluation, selection, technical review or similar committee must be listed on an affidavit provided by the County. The affidavit shall be filed with the Clerk of the Board at the time the response is submitted. The individual or firm must submit a revised affidavit for additional team members added after submittal of the proposal with the Clerk of the Board at least two days prior to the oral presentation. Any person not listed on the affidavit or revised affidavit may not participate in the oral presentation.

Other than for the oral presentation, Proposers who wish to address the county commission, county board or county committee concerning any actions, decisions or recommendations of County personnel regarding this solicitation in accordance with Section 2-11.1(s) of the Code of Miami-Dade County MUST register with the Clerk of the Board and pay all applicable fees.

I do solemnly swear that all the foregoing facts are true and correct and I have read or am familiar with the provisions of Section 2-11.1(s) of the Code of Miami-Dade County as amended.

Signature of Authorized Representative: \_\_\_\_\_ Title: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_, by \_\_\_\_\_, a \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification and who did/did not take an oath.

(Signature of person taking acknowledgement)

(Name of Acknowledger typed, printed or stamped)

(Title or Rank)

(Serial Number, if any)

Revised 2/7/05



**Form A-3**  
**ACKNOWLEDGEMENT OF ADDENDA**

**Instructions:** Complete Part I or Part II, whichever is applicable.

**PART I:** Listed below are the dates of issue for each Addendum received in connection with this solicitation.

Addendum #1, Dated \_\_\_\_\_, 20\_\_

Addendum #2, Dated \_\_\_\_\_, 20\_\_

Addendum #3, Dated \_\_\_\_\_, 20\_\_

Addendum #4, Dated \_\_\_\_\_, 20\_\_

Addendum #5, Dated \_\_\_\_\_, 20\_\_

Addendum #6, Dated \_\_\_\_\_, 20\_\_

Addendum #7, Dated \_\_\_\_\_, 20\_\_

Addendum #8, Dated \_\_\_\_\_, 20\_\_

Addendum #9, Dated \_\_\_\_\_, 20\_\_

**PART II:**

\_\_\_\_ No Addendum was received in connection with this solicitation.

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

Firm Name: \_\_\_\_\_

A-3 - REV. 1/27/00

## LOCAL BUSINESS PREFERENCE

1. Proposer has a valid Local Business Tax Receipt (formerly known as an Occupational License), issued by Miami-Dade County at least one year prior to proposal submission, that is appropriate for the goods, services or construction to be purchased.

2. Proposer has a physical business address located within the limits of Miami-Dade County from which the Proposer operates or performs business. (Post Office Boxes are not verifiable and shall not be used for the purpose of establishing said physical address.)

3. Proposer contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way. This may include but not be limited to the retention and expansion of employment opportunities and the support and increase in the County's tax base. To satisfy this requirement, the Proposer shall affirm in writing its compliance with any of the following objective criteria as of the proposal submission date:

- ☐ a) Proposer has at least ten (10) permanent full time employees, or part time employees equivalent to 10 FTE ("full-time equivalent" employees working 40 hours per week) that live in Miami-Dade County, or at least 25% of its employees that live in Miami-Dade County.
- ☐ b) Proposer contributes to the County's tax base by paying either real property taxes or tangible personal property taxes to Miami-Dade County.
- ☐ c) Proposer contributes to the economic development and well-being of Miami-Dade County by some other verifiable and measurable contribution by \_\_\_\_\_

Rev. 8/12/2009

By signing below, Proposer affirms that it meets the above criteria to qualify for Local Preference and has submitted the requested documents.

Note: At this time, there is an interlocal agreement in effect between Miami-Dade and Broward Counties until September 30, 2009. Therefore, a Proposer which meets the requirements of (1), (2) and (3) above for Broward County shall be considered a local business for the purposes outlined herein.

Federal Employer Identification Number: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

I hereby certify that to the best of my knowledge and belief all the foregoing facts are true and correct.

Signature of Authorized Representative: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

SUBSCRIBED AND SWORN TO (or affirmed) before me on \_\_\_\_\_,  
(Date)

by \_\_\_\_\_ He/She is personally known to me or has

(Affiant)

presented \_\_\_\_\_ as identification.

(Type of Identification)

\_\_\_\_\_  
(Signature of Notary)

\_\_\_\_\_  
(Serial Number)

\_\_\_\_\_  
(Print or Stamp Name of Notary)

\_\_\_\_\_  
(Expiration Date)

Notary Public \_\_\_\_\_  
(State)

Notary Seal

## Form A-5

## SUBCONTRACTOR/SUPPLIER LISTING

(Ordinance 97-104)

Name of Proposer \_\_\_\_\_

This form, or a comparable listing meeting the requirements of Ordinance No. 97-104, **MUST** be completed by all bidders and proposers on County contracts for purchase of supplies, materials or services, including professional services which involve expenditures of \$100,000 or more, and all bidders and proposers on County or Public Health Trust construction contracts which involve expenditures of \$100,000 or more. **This form, or a comparable listing meeting the requirements of Ordinance No. 97-104, must be completed and submitted even though the bidder or proposer will not utilize subcontractors or suppliers on the contract. The word "NONE" shall be entered by the bidder or proposer under the appropriate heading in those instances where no subcontractors or suppliers will be used on the contract.** A bidder or proposer who is awarded the contract shall not change or substitute first tier subcontractors or direct suppliers or the portions of the contract work to be performed or materials to be supplied from those identified except upon written approval of the County.

| Business Name and Address of First Tier Subcontractor/Subconsultant | Principal Owner | Scope of Work to be Performed by Subcontractor/Subconsultant | (Principal Owner) |      |
|---|-----------------|--|-------------------|------|
|   |                 |  | GENDER            | RACE |
|   |                 |  |                   |      |
|   |                 |  |                   |      |
|   |                 |  |                   |      |
|   |                 |  |                   |      |
|   |                 |  |                   |      |
| Business Name and Address of Direct Supplier                        | Principal Owner | Supplies/Materials/Services to be Provided by Supplier       | (Principal Owner) |      |
|   |                 |  | GENDER            | RACE |
|   |                 |  |                   |      |
|   |                 |  |                   |      |
|   |                 |  |                   |      |
|   |                 |  |                   |      |
|   |                 |  |                   |      |
|   |                 |  |                   |      |

I certify that the representations contained in this Subcontractor/Supplier Listing are to the best of my knowledge true and accurate.

Signature of Proposer's  
Authorized Representative

Print Name

Print Title

Date

(Duplicate if additional space is needed)  
Form A-5(new 5/7/99)

**Form A-6**

***FAIR SUBCONTRACTING POLICIES***  
***(Ordinance 97-35)***

**FAIR SUBCONTRACTING PRACTICES**

In compliance with Miami-Dade County Ordinance 97-35, the Proposer submits the following detailed statement of its policies and procedures for awarding subcontracts:

\_\_\_\_\_  
I hereby certify that the foregoing information is true, correct and complete.

Signature of Authorized Representative: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

Firm Name: \_\_\_\_\_

# **DRAFT FORM OF AGREEMENT**

# DRAFT FORM OF AGREEMENT

## AUTOMATED PLAYOUT SYSTEM

THIS HARDWARE, SOFTWARE LICENSE, IMPLEMENTATION, ESCROW, MAINTENANCE, AND SUPPORT AGREEMENT ("AGREEMENT") IS MADE AND ENTERED INTO BY AND BETWEEN MIAMI-DADE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, HAVING ITS PRINCIPAL OFFICE AT 111 N.W. 1ST STREET, MIAMI, FLORIDA 33128 (HEREINAFTER REFERRED TO AS THE "COUNTY"), AND \_\_\_\_\_, A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF \_\_\_\_\_, HAVING ITS PRINCIPAL OFFICE AT \_\_\_\_\_ (HEREINAFTER REFERRED TO AS THE "CONTRACTOR").

WITNESSETH:

WHEREAS, the Contractor has offered to provide a Automated Playout System, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Proposals (RFP) No. TBA and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Contractor has submitted a written proposal dated \_\_\_\_\_, hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the County desires to procure from the Contractor such Automated Playout System for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

A. County is the owner of, or has acquired rights to, the Automated Playout System and Documentation (as defined below).

B. Contractor desires to grant to the County and the County desires to obtain from the Contractor a nonexclusive perpetual enterprise license to use the Software and Documentation solely in accordance with the terms and on the conditions set forth in this Agreement.

C. Contractor shall provide the required maintenance and support services for the Licensed Software licensed by the County on the conditions set forth in this Agreement.

### **ARTICLE 1. DEFINITIONS**

- (a) The term "Application Software" or "Licensed Software" to mean the license programs that will be used to perform the tasks specified in the Scope of Services.
- (b) The terms "Contractor" or "Consultant" or "Vendor" to mean the Proposer who receives any award of a Contract from the County as a result of this Solicitation, which is also to be known as "the prime Contractor" or "the prime Consultant."
- (c) The term "County" to mean Miami-Dade County, a political subdivision of the State of Florida.

- (d) The word “Department “ to mean the Miami-Dade County Government Information Center (GIC).
- (e) The term “Days” to mean calendar days.
- (f) The term “Deliverables” to mean the tangible work product submitted by the Contractor to the County.
- (g) The term “Final Acceptance” to mean the successful completion of the Software Functionality, and User Acceptance Testing which demonstrate that all System functions are operational and perform as required by Section 2.0: Scope of Services.
- (h) The term “GoLive” or “GoLive Date” to mean the date on which the delivered System is used in a production environment.
- (i) The term “Live Support” to mean Contractor’s help desk services that meets the requirements as stated in this Agreement.
- (j) The term “Maintenance” to mean keeping the license software in a condition so that it operates as set forth in the documentation and in conformity to Section 2.0: Scope of Services.
- (k) The term “Module” to mean a distinct component of the “Licensed Software.”
- (l) The terms “Scope of Services” or “Scope of Work” to mean Section 2.0 of this Agreement, which details the work to be performed by the Contractor or Subcontractor.
- (m) The term “Services” to mean all actions performed or to be performed by the Contractor or its Subcontractors as listed in Section 2.0: Scope of Services of this Agreement
- (n) The term “Solicitation” to mean the County’s Request For Proposal (EPP-RFP740) document and all associated addenda and attachments.
- (o) The terms “Subcontractor” or “Subconsultant” to mean any person, firm, entity or organization, other than the employees of the Contractor, who contracts with the Contractor to furnish labor, or labor and materials, in connection with the Work or Services to the County, whether directly or indirectly, on behalf of the Contractor.
- (p) The term “Solution”, “System”, “Turnkey” to mean software, hardware, databases, and all components required to implement, deploy, maintain, and operate the goods and services in order to fulfill the requirements of Section 2.0: Scope of Services of this Agreement.
- (q) The term “Third-Party” to mean any company or subcontractor, other than the Contractor, who will provide software, and/or services in order to fulfill the requirements of Section 2.0: Scope of Services of this Agreement.
- (r) The term “User” to mean County staff accessing the licensed software.
- (s) The term “Warranty Period” to mean the period beginning with Final Acceptance of the System and continuing for one year.
- (t) The terms “Work,” “Services,” “Program,” “Project,” or “Engagement” to mean all matters and things that will be required to be done by the Contractor in accordance with Section 2.0: Scope of Services and the terms and conditions of this Agreement.
- (u) The word “Miami-Dade TV”, a division of the GIC is the County’s government access television station, carried by all cable TV systems in Miami-Dade County.

## **ARTICLE 2. GRANT OF RIGHTS**

2.1 License. The License granted for Software under this Agreement authorizes the County on a nonexclusive basis to use the Software on Designated Equipment as outlined in Exhibit “A”.



2.2 Additional Licenses. During the term of the Agreement, should the County wish to purchase additional licenses from the Contractor, the fees shall be according to Appendix B, "Payment Schedule." All additional licenses purchased shall be documented in writing by the Contractor and amended in Exhibit "A".

### **ARTICLE 3. DELIVERY**

3.1 Software, the Contractor shall deliver to the County a master copy of the System Software licensed hereunder in object code form, suitable for reproduction, in electronic files only.

3.2 All Licensed Software, and/or Deliverables the County ordered shall be delivered F.O.B. inside delivery destination, freight, prepaid and allowed.

3.3 Documentation, the Contractor shall deliver copies of the associated Software Documentation to the County in an electronic format.

3.4 Acceptance, the Services and System Software shall be deemed "Accepted" when: the County's acceptance testing is satisfactorily completed with no critical or major defects and the County delivers a signed statement to Contractor accepting all deliverables from Contractor under this Agreement.

### **ARTICLE 4. AGREEMENT TERM**

4.1 The Agreement shall become effective on the date that it is signed by the County or the Contractor, whichever is later and shall be for the duration of three (3) year(s). The County, at its sole discretion, reserves the right to exercise the option to renew this Agreement for five (5) additional two (2) year periods.

4.2 Extension. The County also reserves the right to exercise its option to extend this Agreement for up to one hundred-eighty (180) calendar days beyond the current Agreement period or beyond any of the renewals.

4.3 Notification. The County will notify the Contractor in writing of the extension. This Agreement may be further extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners.

### **ARTICLE 5. SUPPORT AND MAINTENANCE SERVICES**

5.1 Contractor Obligations. Contractor shall provide the County with the following support and maintenance services for the products licensed by the County:

- a) Provision of known error corrections by delivery of available patches via electronic communication and for download via the Internet.
- b) Provision of available minor updates (bundling of several error corrections in one version) for download via the Internet.
- c) Provision of available medium upgrades (version with additional / enhanced functions) for download via the Internet.
- d) Provision of available major upgrades (version with substantially enhanced volume of functions).
- e) Information via electronic communication (email) when new minor/medium/major updates are available.

The support and maintenance services listed in this **clause 5.1** only comprise the products licensed by the County, but not any new products of the same product family. The granting of rights of use and the delivery of the relevant license files for all minor, medium and major upgrades shall be limited to the number and type of products for which this Agreement has been concluded.

Resolution time, interim solution.

5.1 Telephone Support. For the term of this Agreement, Contractor shall provide telephone support in the following manner: Queries for specific technical problems and failures are possible at any

time. For this purpose, the County will generally leave a message indicating the exact problem description and a classification in the following priority and error levels as detailed in the table below:

1. Help Desk Services

A. Live Support for “any issue” available from 7:00 AM – 7:00 PM (ET) Monday through Friday.

B. Live Support for “system down issues” available 24 hours a day, 7 days a week.

| Severity    | Definition   | Response Time | Resolution Time  | Status Frequency Update |
|-------------|--|---------------|--|-------------------------|
| 1=Critical  | A major component of the System, whether hardware or software, is in a non-responsive state and severely affects County's productivity or operations.<br><br>A high impact problem which affects the County.   | One (1) Hour  | Four (4) Hours   | One (1) Hour            |
| 2=Urgent    | Any component failure or loss of functionality not covered in Severity 1 that is hindering operations, such as, but not limited to: excessively slow response time; functionality degradation; error messages; backup problems; or issues affecting the use of a module or the data. | Two (2) Hours | Eight (8) Hours  | Two (2) Hours           |
| 3=Important | Lesser issues, questions, or items that minimally impact the work flow or require a work around.   | 4 hours       | Seventy two (72) Hours   | Four (4) Hours          |
| 4=Minor     | Issues, questions, or items that don't impact the work flow.<br><br>Issues that can easily be scheduled such as an upgrade or patch.   | 24 hours      | One (1) Month for an acceptable work around until final resolution | Weekly Status Call      |

5.3 Email Support. For the term of this Agreement, Contractor shall provide support via email. The error and priority levels set forth in clause 5.2 above and the response times indicated therein are applicable.

5.4 Subject Matter of Support Services. The subject matter of support services in clauses 5.2 and 5.3 above is the help with installation or operation problems and alleged program errors. Installation services or other support services at the County's location are not a subject matter of this Maintenance Agreement.

5.5 Payments. Any and all support and maintenance services under this Agreement shall be compensated for by means of an annual flat rate. The fees are due for payment annually in advance upon invoicing by Contractor as set forth in Exhibit “A”.

## **ARTICLE 6. SOFTWARE MODIFICATIONS**

6.1 Error Corrections and Updates. The Contractor will provide the County with error corrections, bug fixes, patches or other updates to the Software licensed hereunder in object code form to the extent available in accordance with the Contractor's release schedule for the term of this Agreement.

6.2 Software Enhancements or Modifications. The County may, from time to time, request that the Contractor incorporate certain features, enhancements or modifications into the licensed Software. When requested by the County, the Contractor shall provide the requested system enhancements/modifications including all relevant source code. Upon the County's request for such enhancements/modifications the County shall prepare a Statement of Work ("SOW") for the specific Project that shall define in detail the Services to be performed. The Contractor shall submit a cost proposal including all costs pertaining to furnishing the County with the enhancements/modifications.

- a) After the SOW has been accepted a detailed requirements and detailed design document shall be submitted illustrating the complete financial terms that govern the SOW, proposed Project staffing, anticipated Project schedule, and other information relevant to the Project. Each SOW executed hereunder shall automatically incorporate the terms and conditions of this Agreement. Such enhancements or modifications shall become the property of the County. Notwithstanding the foregoing, performance of any such modifications shall not compromise the Contractor's warranty obligations.
- b) Following the County's acceptance of all enhancements/modification, the Contractor shall provide the County, if so requested with written confirmation of the date the enhancements/modification was applied to the Licensed Software, and any and all Documentation relating to the Licensed Software and or enhancements/modification thereto.

6.3 Title to Modifications. All such error corrections, bug fixes, patches, updates or new releases shall be the sole property of the Contractor.

#### **ARTICLE 7. FUNCTIONALLY EQUIVALENT SOFTWARE**

For as long as the County remains current on Support and/or the service fees for the Licensed Software, the Contractor is obligated to provide maintenance and support pursuant to the contract. In the event that Contractor should wish to discontinue maintenance and support of the then current version of the Licensed Software as set forth in Exhibit A, "Scope of Services" or any amendment thereto, and as long as the County is current on Support, Contractor shall be required to provide to the County, free of charge, and with reasonable time to allow for uninterrupted use by the County, a new version of the software, if one is generally made available to all Contractor customers of the Licensed Software current on Support, which shall replace the previous version and perform the functions described in Exhibit A, "Scope of Services" or any amendment thereto, and to support and maintain such new version of the License Software for the balance of the term of this Agreement without additional costs to the County, other than the payment of applicable Support fees.

In the case that Contractor is providing Support of the then current version of the License Software being used by the County, Contractor shall only provide any new version of the License Software if the County is current on Support and there are no outstanding account receivables and the new License Software is generally made available to all Contractor's customers current on Support. Any License Software that includes additional functionality or modules that the County wishes to use may require additional fees which fees shall be mutually agreed upon in writing by the parties herein.

In the event of a conflict between this Article 7 and any other Articles contained within this Agreement, this Article 7 will prevail.

#### **ARTICLE 8. LICENSE FEES AND PAYMENT**

8.1 License Fee. In consideration of the license rights granted in Article 2, "Grant of Rights" above, the County shall pay the Software License Fees or other consideration for the Software and Documentation as set forth on Appendix B "Price Schedule" attached hereto. All amounts payable hereunder by the County shall be payable as stated in this Agreement. The County shall have no obligation to pay the Contractor or any additional sum in excess of this amount, except for a change and/or modification to the Agreement, which is approved and executed in writing by the County and the Contractor. All Services undertaken by the Contractor or before County's approval of this Agreement shall be at the Contractor's risk and expense.

8.2 Travel. With respect to travel costs and travel related expenses, the Contractor agrees to adhere to CH. 112.061 of the Florida Statutes as they pertain to out-of-pocket expenses including employee lodging, transportation, per diem, and all miscellaneous cost-and fees. The County shall not be liable for any such expenses that have not been approved in advance, in writing, by the County.

8.3 Fixed Pricing. Prices shall remain firm and fixed for the term of the Agreement, including any option or extension periods; however, the Contractor may offer incentive discounts to the County at any time during the Agreement term, including any renewal or extension thereof.

8.4 Invoices. All invoices issued by the Contractor, shall be supported by receipt bills or other documents reasonably required by the County. Invoices shall show the County's Agreement number, and shall have a unique invoice number assigned by the Contractor. It is the policy of Miami-Dade County that payment for all purchases by County agencies shall be made in a timely manner and that interest payments be made on late payments. In accordance with Florida Statutes, Section 218.74 and Section 2-8.1.4 of the Miami-Dade County Code, the time at which payment shall be due from the County shall be forty-five days from receipt of a proper invoice. The time at which payment shall be due to small businesses shall be thirty (30) days from receipt of a proper invoice. All payments due from the County and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Manager, or his or her designee(s), not later that sixty (60) days after the date on which the proper invoice was received by the County.

Invoices and associated back-up documentation shall be submitted in duplicate by the Contractor to the County as follows:

Miami-Dade County  
Government Information Center Department  
111 NW 1<sup>st</sup> Street, Suite 2510  
Miami, Florida 33128

Attention: Tony Vivian  
Phone: 305-375-5740

The County may at any time designate a different address and/or contact person by giving written notice to the other party.

## **ARTICLE 9. PROTECTION OF SOFTWARE**

9.1 Proprietary Information. The Contractor acknowledges that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could hard the County's proprietary interest therein.

9.2 Proprietary Rights. The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subconsultants and suppliers may use only in connection of the performance of Services under this Agreement.

- a) All rights, title and interest in and to certain ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subconsultants specifically for the County, hereinafter referred to as "Developed Works" shall become the property of the County.
- b) Accordingly, neither the Contractor nor its employees, agents, subconsultants or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subconsultants or supplier thereof, without the prior written consent of the County, except as

required for the Contractor's performance hereunder.

- c) Except as otherwise provided in subsections a and b above, or elsewhere herein, the Contractor hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth by the County in a defined SOW.

9.3 No Reverse Engineering. The County agrees not to modify, reverse engineer, disassemble, or decompile the Software, or any portion thereof.

9.4 Ownership. County further acknowledges that all copies of the Software in any form provided by the Contractor are the sole property of the Contractor. The County shall not have any right, title, or interest to any such Software or copies thereof except as provided in this Agreement, and further shall secure and protect all Software and Documentation consistent with maintenance of Contractor's proprietary rights therein.

## **ARTICLE 10. CONFIDENTIALITY**

10.1 As a political subdivision of the State of Florida, Miami-Dade County is subject to Florida's Public Records Law, Section 119 of the Florida Statutes. Notwithstanding anything else in this Article to the contrary, the County's compliance with, or good faith attempt to comply with the requirements of Chapter 119 of Florida Statute shall not be considered breach of this Agreement.

10.2 Acknowledgement. County hereby acknowledges and agrees that the equipment and associated software constitute and contain proprietary products and trade secrets of the Contractor embodying creative efforts and confidential information, ideas, and expressions. Accordingly, the County agrees to treat (and take precautions to ensure that its employees treat) the equipment and associated software as confidential in accordance with the confidentiality requirements and conditions set forth below.

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor in the course of the performance of the Agreement, or which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, subconsultants or suppliers for any purpose other than for the benefit of the County, unless required by law.
- b) In addition to the foregoing, all County employee information and County financial information shall be considered confidential information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, subconsultants or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.

10.3 Maintenance of Confidential Information. The Contractor shall advise each of its employees, agents, subconsultants and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or subconsultants or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.

10.4 Injunctive Relief. It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, subconsultants or suppliers without the prior written consent of the County.

10.5 Survival. Licensee's obligations under this Article 10 will survive the termination of this Agreement or of any license granted under this Agreement for whatever reason.

## **ARTICLE 11. WARRANTIES**

11.1 Ownership. The Contractor represents that it is the owner of the entire right, title, and interest in and to Software, and that it has the sole right to grant licenses thereunder, and that it has not knowingly granted licenses thereunder to any other entity that would restrict rights granted hereunder except as stated herein.

11.2 Limited Warranty. Contractor represents and warrants to the County that the Software, when properly installed by the County and used with the Designated Equipment, will perform substantially as described in Contractor's then current Documentation for such Software for a period of one year from the date of Final Acceptance by the County.

11.3 Limitations. Notwithstanding the warranty provisions set forth in **Section 11.2** above, all of Contractor's obligations with respect to such warranties shall be contingent on County's use of the Software in accordance with this Agreement and in accordance with Contractor's instructions as provided to the County in the Documentation, as such instructions may be amended, supplemented, or modified by the Contractor from time to time. The Contractor shall have no warranty obligations with respect to any failures of the Software which are the result of accident, abuse, misapplication, or extreme power surge.

11.4 Contractor's Sole Remedy. The Contractor's entire liability and the County's exclusive remedy shall be, at the County's option, either (a) return of the price paid or (b) repair or replacement of the Software; provided the Contractor receives written notice from the County during the warranty period of a breach of warranty. Any replacement Software will be warranted for the remainder of the original warranty period or ninety (90) days, whichever is longer.

11.5 Limitation of Liability. COUNTY ACKNOWLEDGES AND AGREES THAT THE CONSIDERATION WHICH THE CONTRACTOR IS CHARGING HEREUNDER DOES NOT INCLUDE ANY CONSIDERATION FOR ASSUMPTION OF THE RISK OF THE COUNTY'S CONSEQUENTIAL OR INCIDENTAL DAMAGES WHICH MAY ARISE IN CONNECTION WITH COUNTY'S USE OF THE SOFTWARE AND DOCUMENTATION.

- a) Any provision herein to the contrary notwithstanding, the maximum liability of Contractor to any person, firm or corporation whatsoever arising out of or in the connection with any license, use or other employment of any Software delivered to the County hereunder, whether such liability arises from any claim based on breach or repudiation of Agreement, warranty, tort or otherwise, shall in no case exceed the actual price paid to the Contractor by the County for the Software whose license, use, or other employment gives rise to the liability.

## **ARTICLE 12. INSURANCE AND INDEMNIFICATION**

Provider shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Provider or its employees, agents, servants, partners principals or subcontractors. Provider shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Provider expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Provider shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

The vendor shall furnish to the Vendor Assistance Section, Department of Procurement Management, Administration Division, 111 NW 1st Street, Suite 1300, Miami, Florida 33128, Certificate(s) of Insurance

which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the vendor as required by Florida Statute 440.
- B. Public Liability Insurance on a comprehensive basis in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.
- D. Professional Liability Insurance in the amount of \$1,000,000 per claim.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

**The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.**

Certificates will indicate no modification or change in insurance shall be made without thirty (30) days in advance notice to the certificate holder.

**NOTE: DADE COUNTY RFP NUMBER AND TITLE OF RFO MUST APPEAR ON EACH CERTIFICATE.**

**CERTIFICATE HOLDER MUST READ:**

**MIAMI-DADE COUNTY  
111 NW 1<sup>st</sup> STREET  
SUITE 2340  
MIAMI, FL 33128**

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within fifteen (15) calendar days after County notification to Contractor to comply before the award is made. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Contractor shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) calendar days after County notification to comply, the Contractor shall be in default of the contractual terms and conditions and award of the Contract will be rescinded, unless such time frame for submission has been extended by the County.

The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates

which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

#### **ARTICLE 13. DEFAULT AND TERMINATION**

13.1 Termination. The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its obligations under this Agreement with the County through fraud, misrepresentation or material misstatement.

- a) The County may, as a further sanction, terminate or cancel any other Agreement(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.
- b) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its obligations with the County under this Agreement through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the County Code.

13.2 Termination for Convenience. In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor and in such event:

- a) The Contractor shall, upon receipt of such notice, unless otherwise directed by the County: (i) stop work on the date specified in the notice ("the Effective Termination Date"); (ii) take such action as may be necessary for the protection and preservation of the County's materials and property; (iii) take no action which will increase the amounts payable by the County under this Agreement; and
- b) In the event that the County exercises its right to terminate this Agreement for convenience only, the Contractor will be compensated as stated in the payment Articles, herein, for the portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and
- c) All compensation pursuant to this Article are subject to audit.

13.3 Events of Default. This Agreement may be terminated by the nondefaulting party if any of the following events of default occur: (1) if a party materially fails to perform or comply with this Agreement or any provision hereof; (2) if either party fails to strictly comply with the provisions of Article 10 (Confidentiality) or makes an assignment in violation of Article 15 (Nonassignability); (3) if the Contractor becomes insolvent or bankrupt, or makes an assignment for the benefit of creditors.

13.4 Effective Date of Termination. Termination due to a material breach of Articles 2 (Grant of Rights), 9 (Protection of Software), or 10 (Confidentiality) shall be effective on notice. In all other cases, termination shall be effective thirty (30) days after notice of termination to the defaulting party if the defaults have not been cured within such thirty (30) day period.

13.5 Obligations on Termination. Within ten (10) days after termination of this Agreement, County shall cease and desist all use of the Software and Documentation.

#### **ARTICLE 14. NOTICES**

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

**(1) To the County Project Manager:**



Miami-Dade County  
Government Information Center  
111 NW 1 Street, Suite 2500  
Miami, Florida 33146

Attention: Tony Vivian  
Phone: (305) 375-5740  
Fax: (305) 372-6113  
E-mail: tonyv@miamidade.gov

**and to the Agreement Manager:**

Miami-Dade County  
Department of Procurement Management  
111 N.W. 1<sup>st</sup> Street, Suite 1300  
Miami, FL 33128-1974

Attention: Leida Altman Carrillo  
Phone: (305) 375- 1084  
Fax: (305) 375- 5688  
E-mail: lcarril@miamidade.gov

**(2) To the Contractor**

Attention:  
Phone:  
Fax:  
E-mail:

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

**ARTICLE 15. NONASSIGNABILITY**

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title or interest in or to the same or any part thereof without the prior written consent of the County.

This Agreement shall be binding upon the respective successors and assigns of the parties to this Agreement.

**ARTICLE 16. INSPECTOR GENERAL REVIEWS**

16.1 Independent Private Sector Inspector General Reviews. Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Contractor, its officers, agents, employees, subconsultants and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

16.2 Miami-Dade County Inspector General Review. According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the

Inspector General which may, on a random basis, perform audits on all County Agreements, throughout the duration of said Agreements, except as otherwise provided below. The cost of the audit for this Agreement shall be one quarter (1/4) of one (1) percent of the total Agreement amount which cost shall be included in the total Agreement amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all Agreement renewals and extensions.

16.3 Exception. The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following Agreements: (a) IPSIG Agreements; (b) Agreements for legal services; (c) Agreements for financial advisory services; (d) auditing Agreements; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance Agreements; (h) revenue-generating Agreements; (i) Agreements where an IPSIG is assigned at the time the Agreement is approved by the Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted Agreement at the time of award

16.4 Inspector General Powers. Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County Agreements including, but not limited to, those Agreements specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust Agreements, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Agreement. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with Agreement specifications and to detect fraud and corruption.

- a) Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the Agreement, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and Agreement documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

## **ARTICLE 17. GOVERNING LAW**

This Agreement, including appendices, and all matters relating to this Agreement (whether in Agreement, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida.

## **ARTICLE 18. COUNTY USER ACCESS PROGRAM (UAP)**

18.1 User Access Fee. Pursuant to Miami-Dade County Budget Ordinance No. 03-192, this Agreement is subject to a user access fee under the County User Access Program (UAP) in the amount of two percent (2%). All sales resulting from this Agreement, or any Agreement resulting from this solicitation and the utilization of the County Agreement price and the terms and conditions identified herein, are subject to the

two percent (2%) UAP. This fee applies to all Agreement usage whether by County Departments or by any other governmental, quasi-governmental or not-for-profit entity.

The Contractor providing goods or services under this Agreement shall invoice the Agreement price and shall accept as payment thereof the Agreement price less the 2% UAP as full and complete payment for the goods and/or services specified on the invoice. The County shall retain the 2% UAP for use by the County to help defray the cost of the procurement program. Vendor participation in this invoice reduction portion of the UAP is mandatory.

18.2 Joint Purchase. Only those entities that have been approved by the County for participation in the County's Joint Purchase and Entity Revenue Sharing Agreement are eligible to utilize or receive County Agreement pricing and terms and conditions. The County will provide to approved entities a UAP Participant Validation Number. The Contractor must obtain the participation number from the entity prior to filling any order placed pursuant to this section. Contractor participation in this joint purchase portion of the UAP, however, is voluntary. The Contractor shall notify the ordering entity, in writing, within 3 work days of receipt of an order, of a decision to decline the order.

For all ordering entities located outside the geographical boundaries of Miami-Dade County, the Contractor shall be entitled to ship goods on an "FOB Destination, Prepaid and Charged Back" basis. This allowance shall only be made when expressly authorized by a representative of the ordering entity prior to shipping the goods.

The County shall have no liability to the Contractor for the cost of any purchase made by an ordering entity under the UAP and shall not be deemed to be a party thereto. All orders shall be placed directly by the ordering entity with the Contractor and shall be paid by the ordering entity less the 2% UAP.

18.3 Contractor Compliance. If a Contractor fails to comply with this Article, that Contractor may be considered in default by the County in accordance with this Agreement.

## **ARTICLE 19. VENDOR REGISTRATION AND FORMS/CONFLICT OF INTEREST**

### **a) Vendor Registration**

The Contractor shall be a registered vendor with the County – Department of Procurement Management, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Contractor confirms its knowledge of and commitment to comply with the following:

1. **Miami-Dade County Ownership Disclosure Affidavit**  
(Section 2-8.1 of the County Code)
2. **Miami-Dade County Employment Disclosure Affidavit** (Section 2-8-1(d)(2) of the County Code)
3. **Miami-Dade Employment Drug-free Workplace Certification**  
(Section 2-8.1.2(b) of the County Code)
4. **Miami-Dade Disability and Nondiscrimination Affidavit**  
(Section 2-8.1.5 of the County Code)
5. **Miami-Dade County Debarment Disclosure Affidavit**  
(Section 10.38 of the County Code)
6. **Miami-Dade County Vendor Obligation to County Affidavit**  
(Section 2-8.1 of the County Code)
7. **Miami-Dade County Code of Business Ethics Affidavit**  
(Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)
8. **Miami-Dade County Family Leave Affidavit**  
(Article V of Chapter 11 of the County Code)
9. **Miami-Dade County Living Wage Affidavit**  
(Section 2-8.9 of the County Code)
10. **Miami-Dade County Domestic Leave and Reporting Affidavit**  
(Article 8, Section 11A-60 11A-67 of the County Code)
11. **Subcontracting Practices**  
(Ordinance 97-35)
12. **Subcontractor /Supplier Listing**  
(Section 2-8.8 of the County Code)
13. **Environmentally Acceptable Packaging**  
(Resolution R-738-92)
14. **W-9 and 8109 Forms**  
(as required by the Internal Revenue Service)
15. **FEIN Number or Social Security Number**  
In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:
  - Identification of individual account records
  - To make payments to
- individual/Contractor for goods and services provided to Miami-Dade County
- Tax reporting purposes
- To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records
16. **Office of the Inspector General**  
(Section 2-1076 of the County Code)
17. **Small Business Enterprises**  
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.
18. **Antitrust Laws**  
By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida.

**b) Conflict of Interest**

Section 2-11.1(d) of Miami-Dade County Code as amended by Ordinance 00-1, requires any county employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County from competing or applying for any such contract as it pertains to this solicitation, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County and that any such contract, agreement or business engagement entered in violation of this subsection, as amended, shall render this Agreement voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

**ARTICLE 20. ANNUAL APPROPRIATION**

The County's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Board of County Commissioners. Cancellation will not cause any penalty or expense to the County, except as to the portions of payments agreed upon and for which funds have been appropriated and budgeted. Service/Maintenance can be cancelled at any time that the Contractor is notified in writing, at least thirty (30) days prior to cancellation. There will be no early termination charges from the Contractor for canceling service/maintenance during the year.

**ARTICLE 21. SEVERABILITY**

If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

**ARTICLE 22. EMPLOYEES ARE THE RESPONSIBILITY OF THE CONTRACTOR**

All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

**ARTICLE 23. INDEPENDENT CONTRACTOR RELATIONSHIP**

The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

The Contractor does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement.

**ARTICLE 24. AUTHORITY OF THE COUNTY'S PROJECT MANAGER**

- a) The Contractor hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Contractor shall be bound by all determinations or orders and shall promptly obey and follow every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given

orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.

- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.
- d) In the event of such dispute, the parties to this Agreement authorize the County Manager or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Manager's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the County Manager within 10 days of the occurrence, event or act out of which the dispute arises.
- e) The County Manager may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Manager participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Manager for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the County Manager is entitled to exercise discretion or judgment or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Manager, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

#### **ARTICLE 25. MUTUAL OBLIGATIONS**

- a) This Agreement, including attachments and appendixes to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.
- b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

#### **ARTICLE 26. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING**

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services. The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

#### **ARTICLE 27. AUDITS**

The County, or its duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

Pursuant to County Ordinance No. 03-2, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

#### **ARTICLE 28. SUBSTITUTION OF PERSONNEL**

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

#### **ARTICLE 29. SUBCONTRACTUAL RELATIONS**

- a) If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.
- b) The Contractor, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Services which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.
- c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Subcontractor will strictly comply with the requirements of this Contract.
- d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.
- e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County permitting the County to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the County finds the Contractor in breach of its obligations, the option to pay the Subcontractor directly for the performance by such subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any subcontractor hereunder as more fully described herein.

#### **ARTICLE 30. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS**

The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

#### **ARTICLE 31. TERMINATION FOR CONVENIENCE AND SUSPENSION OF WORK**

- a) The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.
- b) The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.
- c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the County Code.

In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor and in such event:

- d) The Contractor shall, upon receipt of such notice, unless otherwise directed by the County:
  - i. stop work on the date specified in the notice ("the Effective Termination Date");
  - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
  - iii. cancel orders;
  - iv. assign to the County and deliver to any location designated by the County any noncancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
  - v. take no action which will increase the amounts payable by the County under this Agreement; and
- e) In the event that the County exercises its right to terminate this Agreement pursuant to this Article the Contractor will be compensated as stated in the payment Articles, herein, for the:
  - i. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and
  - ii. noncancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement but not incorporated in the Services.
- f) All compensation pursuant to this Article are subject to audit.

#### **ARTICLE 32. EVENT OF DEFAULT**

- a) An Event of Default shall mean a breach of this Agreement by the Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, shall



include the following:

- i. the Contractor has not delivered Deliverables on a timely basis.
  - ii. the Contractor has refused or failed, except in case for which an extension of time is provided, to supply enough properly skilled Staff Personnel;
  - iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;
  - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
  - v. the Contractor has failed to obtain the approval of the County where required by this Agreement;
  - vi. the Contractor has failed to provide "adequate assurances" as required under subsection "b" below;
  - vii. the Contractor has failed in the representation of any warranties stated herein.
- b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the County may request that the Contractor, within the time frame set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the County receives such assurances the County may request an adjustment to the compensation received by the Contractor for portions of the Services which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed time frame, the County may:
- i. treat such failure as a repudiation of this Agreement;
  - ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.
- c) In the event the County shall terminate this Agreement for default, the County or its designated representatives, may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

### **ARTICLE 33. NOTICE OF DEFAULT - OPPORTUNITY TO CURE /TERMINATION**

If an Event of Default occurs, in the determination of the County, the County may so notify the Contractor ("Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the County may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The default notice shall specify the date the Contractor shall discontinue the Services upon the Termination Date.

### **ARTICLE 34. REMEDIES IN THE EVENT OF DEFAULT**

If an Event of Default occurs, the Contractor shall be liable for all damages resulting from the default, including but not limited to:

- a) lost revenues;
- b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for procurement of Services, including procurement and administrative costs; and,

- c) such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

#### **ARTICLE 35. CONFIDENTIALITY**

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its subcontractors in the course of the performance of such Services, or the results of such Services, or which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered confidential information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.
- b) The Contractor shall advise each of its employees, agents, subcontractors and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.
- c) It is understood and agreed that in the event of a breach of this Article 35 damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

#### **ARTICLE 36. PROJECTS AND SERVICES**

The parties anticipate that from time to time they will be in contact regarding the County's needs for assistance on clearly defined Projects ("Projects") in the areas of business strategy, business integration, business process improvement, training, management development, project management, computer programming, systems integration, data processing, software development and other specific activities related to improving the County's computer systems, training or personnel to operate the same, creation or modification of software, and related consulting activities ("Services").

#### **ARTICLE 37. STATEMENT OF WORK**

Prior to the commencement of Services for any Project, the County and the Contractor shall mutually agree upon the terms and conditions required to complete a Statement of Work ("SOW") for the specific Project that shall define in detail the Services to be performed. After the SOW has been accepted a detailed requirements and detailed design document shall be submitted illustrating the complete financial terms that govern the SOW, proposed Project staffing, anticipated Project schedule, and other information relevant to the Project. Each SOW executed hereunder shall automatically incorporate the terms and conditions of this Agreement.

#### **ARTICLE 38. REVIEWING DELIVERABLES**

The Contractor agrees to submit all Deliverables required to be submitted for review and approval by the County in accordance with the specific requirements in the Scope of Services, and as specified herein. The Contractor understands that the County shall have final approval on all Deliverables.

In reviewing the Deliverables, the Contractor understands that the County will provide the Contractor with:

- i. a written notification of the County's approval,
- ii. a written notification that each Deliverable is approved subject to the Contractor providing prompt correction of a minor deficiency, or,
- iii. in the case of a Deliverable that does not meet the requirements of the Agreement, a written notification of the County's disapproval. The County's disapproval notification will state with reasonable detail to sufficiently advise the Contractor of the basis on which the Deliverable was determined to be unacceptable.

The Contractor understands that failure by the County to provide a notice of approval does not constitute approval.

Furthermore:

- a) For each Deliverable made hereunder, the County shall have thirty (30) business days, commencing on the first business day after receipt by the County of the Deliverable, to determine whether the Deliverable is approved as submitted, is approved subject to the correction by the Contractor of minor discrepancies, or whether it is unacceptable and therefore disapproved.
- b) Unless an extension of time has been granted by the County pursuant to Article 38 "Extension of Time", within five business days after receipt of the County's notification of "disapproval", the Contractor shall deliver to the County the necessary revisions and/or modifications for a second review by the County.
- c) If after the second review period the Deliverable remains unacceptable for the County's approval, the County may direct the Contractor to:
  - Proceed with the Work subject to the correction of all outstanding deficiencies which led to the County's determination that a Deliverable was not acceptable for approval on or before a specific date established by the County for correcting such deficiency or deficiencies; or,
  - Suspend all Work being performed in regard to the execution of the Agreement, except those services necessary for the correction of outstanding deficiencies, until such time that all such outstanding deficiencies have been corrected by the Contractor and resubmitted to the County for approval. Any suspension of the Work under this provision shall not alter the County's right to assess liquidated damages in the event that the Work are not completed in accordance with other provisions of this Agreement.
- d) The County shall have the right to approve or accept part of any Deliverable. Any such approval shall be regarded as partial and conditional upon the County's approval or acceptance of all aspects of the Deliverable. The Contractor must correct any deficiencies within the time the County specifies for such correction in the County's notice concerning a partial approval (including approvals subject to correction of minor deficiencies) or, if no time is given, promptly. If the County does not subsequently approve or accept all aspects of the Deliverable, the earlier conditional acceptance or approval may, in the sole absolute discretion of the County, be regarded as void and of no effect.

**ARTICLE 39. DELIVERY AND INSTALLATION**

- a) All Software and/or Deliverables the County ordered shall be delivered F.O.B. Destination. The County shall accept or reject the Software and/or Deliverables within ten (10) days of receipt unless otherwise provided elsewhere in this Agreement.
  - b) If the Contractor fails to make delivery within the time specified in the applicable Work Order, or if the Software and/or Deliverable delivered fails to conform to the requirements hereof in quality, number or otherwise or are found to be defective in material or workmanship, then the County may reject the delivered Software and/or Deliverable or may accept any item of Software and/or Deliverable and reject the balance of the delivered Software and/or Deliverable. The County shall notify Contractor of such rejection in writing and specify in such notice, the reasons for such rejection. Contractor agrees to deliver replacement Software and/or Deliverables for such items of rejected Deliverables and/or Software within fifteen (15) Days of Contractor's receipt of the County's rejection notice.
  - c) The County may delay delivery of ordered Software, and/or Deliverables or any portion thereof, for up to sixty (60) days at no additional cost to the County, by giving written notice to the Contractor of its desire to delay delivery at least ten (10) days prior to the Scheduled Delivery Date set forth in the Order. In the event of such delay, the County will provide the Contractor with a new delivery date for such Software and/or Deliverables or portion thereof as soon as reasonably possible, but in no event later than ten (10) Days following the County's receipt of notice of the Contractor's desire to delay delivery.
  - d) The Contractor shall deliver all ordered Software and/or Deliverables no later than thirty (30) days from the order date.
  - e) The Contractor shall bear the risk of loss or damage to delivered Software and/or Deliverables until the time the Project Manager certifies that the System(s) has successfully completed the System Acceptance test at the applicable site, whether such loss or damage arises from acts or omissions (whether negligent or not) of the Contractor or the County or from any other cause whatsoever, except loss or damage arising solely from the negligence or willful acts of the County.
  - f) Contractor agrees to install the Software at the applicable Sites set forth in the Contract. Contractor agrees to commence installation of the Software as soon after delivery as is possible, but in no event later than five (5) Days after delivery, or unless a different time for installation is otherwise mutually agreed upon by the parties hereto. All installation work will be performed during normal business hours. Contractor shall diligently pursue and complete such installation without interruption and in accordance with the Implementation Schedule, so that such Software is in good working order and ready for use by the Installation Date set forth in the Implementation Schedule.
1. Contractor agrees to do all things necessary for proper installation and to perform its installation obligations hereunder in an orderly, skillful and expeditious manner, with sufficient labor and materials to ensure efficient and timely completion of such obligations. If applicable, Contractor shall coordinate with the Project Manager all work with all other Contractors and/or County personnel performing work at the Site(s) to complete Software installation. The County shall be responsible for resolving all disputes relating to Site access between Contractor and other contractors. Contractor shall provide all materials necessary to proper installation of the Software. The County shall attempt to provide reasonable working and secure storage space for the performance by Contractor of the installation services described herein. Contractor agrees that all installation work will be performed neatly and at all times Contractor shall keep Site(s) free from waste materials and rubbish resulting from the services being performed by Contractor.

2. Unless otherwise agreed to by the County, Contractor agrees as part of the installation process, to perform installation services, including, but not limited to, the following: (a) receipt and inventorying of materials; (b) unloading and uncrating of all Equipment and Software; (c) running of cables; (d) installation and testing of batteries, chargers and power boards; (e) running of power cables; (f) cooperating with all other vendors supplying peripheral or ancillary equipment that will interface with the System; and (g) any additional services necessary to ensure Contractor's compliance with this Article 29.
  3. All cabling provided by Contractor shall be neatly laced, as applicable, dressed, sheathed and adequately supported. When required by local codes, Contractor agrees to provide cables with a flame resistant sheath. All cabling outside any room in which Equipment is located shall be connected in conduits, raceways or runways unless otherwise agreed to in writing by the County. If required by any applicable Federal, State or local laws or codes, Contractor shall ensure that all items of Equipment are firmly held in place in a manner so as to protect such Equipment from seismic shock. In this regard, Contractor agrees to provide fastenings and supports adequate to support Equipment loads with an ample safety margin.
- g) Installation testing shall consist of the tests described in Contractor's proposal dated, which are to be conducted by Contractor and observed by the County. The purpose of these tests is to demonstrate the complete operability of the System(s) in conformance with the requirements of the Contract. This will include an actual demonstration of all required Software features. All tests shall be in accordance with test plans and procedures prepared by Contractor and previously approved by the County. In the event of any outstanding deficiencies at the conclusion of installation testing, as determined by the County, Contractor shall be responsible for instituting necessary corrective measures, and for subsequently satisfactorily demonstrating and/or re-demonstrating system performance.

#### **ARTICLE 40. SOFTWARE RELATED DOCUMENTATION**

The Licensed Software-related Documentation ("Documentation") will consist of the source code for all Licensed Software for which source code is a Deliverable hereunder into an escrow agreement, any and all operator's and user's manuals, training materials, guides, listings, design documents, specifications, flow charts, data flow diagrams, commentary, and other materials and documents that explain the performance, function or operation of individual programs and the interaction of programs within the system; control file and scripts used to compile, link, load and/or make the applications and systems; test scripts, test plans and test data and other materials for use in conjunction with the applicable software. The Documentation will in all cases be fully applicable to the use of the Programs with the Equipment, and will identify and reflect any particular features of the Equipment which may affect the normal use and operation of the Programs. The Contractor shall deliver to the County three copies of said Documentation. The County will have the right, as part of the license granted herein, to make as many additional copies of the Documentation as it may deem necessary.

#### **ARTICLE 41. SOFTWARE ENHANCEMENTS/MODIFICATIONS**

The Contractor understands the County may require changes to the Licensed Software, which is outside the specification of the existing Licensed Software. When requested by the County, the Contractor shall provide the requested system enhancements/modifications including all relevant source code. Upon the County's request for such enhancements/modifications the County shall prepare a scope of work and the Contractor shall submit a cost proposal including all costs pertaining to furnishing the County with the enhancements/modifications.

Thereafter the County and the Contractor shall agree to a not-to-exceed number of hours for the requested modification/enhancement. In no event shall the Contractor perform any Services on the task unless the County issues a written notice to the Contractor to proceed with the task. The Contractor shall not be reimbursed for the

preparation of proposals.

When the source code is completed, tested and accepted by the County, the Contractor shall deliver said source code to the County. The County may revise and modify this source code. The Contractor shall, upon the County's request, install the enhancement/modification and shall provide the County with such services as required, at no additional cost, to enable the County to continue the County's intended use of the Licensed Software. Following the County's enhancements/modification acceptance of all enhancements/modification, such enhancements/modification shall thereafter be considered a part of the Licensed Software for all purposes under this Agreement. The Contractor shall provide the County, if so requested with written confirmation of the date the enhancements/modification was applied to the Licensed Software, and any and all Documentation relating to the Licensed Software and or enhancements/modification thereto.

If any such enhancements/modification is not acceptable to the County, the County may refuse to accept same, and, in such event, the Contractor agrees to maintain the Licensed Software in the form in effect on the date the Contractor requested the County to accept such update.

#### **ARTICLE 42. SOFTWARE WARRANTIES**

- a) Contractor hereby represents and warrants to the County that Contractor has reviewed and evaluated all information furnished by the County and has made all inquiries necessary such that Contractor is fully aware of the County's business requirements and intended uses of the System(s) as set forth or referenced in this Agreement. Accordingly, the System(s) shall satisfy such requirements in all material respects and will be fit for such intended uses. Based on the Contractor's analysis of the Contract Documents, the Contractor hereby represents and warrants to the County that the System(s), as described in the Scope of Services, will meet the County's objectives as set forth in the Contract and that the Contractor is not aware of any material discrepancies among the County's objectives as set forth in the Scope of Services.
- b) Contractor hereby warrants to the County that the Software System(s) to be furnished hereunder at each Site, shall for a period of one (1) year from the applicable System Acceptance Date for a specific Site, (i) operate at the dependability levels specified in the Scope of Services, on a Site by Site basis; (ii) operate as fully integrated System(s) with each component thereof functioning completely and in conjunction with each of the other components of the System(s).
- c) For a period of one (1) year from the applicable System Acceptance Date for a specific Site, Contractor warrants that the portions of the System(s) which were the subject of such System Acceptance Test shall conform to the requirements of the Scope of Services and shall meet the functional, performance and reliability requirements of the County as set forth in the applicable portions of the Scope of Services and the Contractor's proposal. During such one (1) year period for such Site, Contractor will, at no charge to the County, furnish such materials and services as shall be necessary to correct any System(s) defects and maintain the System(s) in accordance with the foregoing system(s) warranty of this subparagraph d).
- d) The performance standards for the System(s) are as set forth in the Contract. Contractor represents and warrants that the System(s) have been configured so that such System(s) performance standards are capable of being met. Such System(s) performance standards shall include, but not be limited to, Contractor's warranty that the System(s) has been properly configured to be capable of handling both the current and the anticipated volumes of transactions specified in the Scope of Services.

#### **ARTICLE 43. SOFTWARE WARRANTY PERIOD**

The Contractor warrants that, for a period of one (1) year from the County's final acceptance of the System at a

specific site, the Software shall (i) be free from defects in material and workmanship under normal use and remain in good working order; (ii) function properly and in conformity with the warranties in this Agreement, (iii) meet all of the performance standards set forth in the Scope of Work and Contractor's proposal.

In the event the Software does not satisfy the conditions of performance set forth in the Scope Of Services and Contractor's proposal, the Contractor's obligation is to provide a Fix or a Work Around at the Contractor's cost and expense, or to provide different equipment, software and services required to attain the performance requirements set forth in the Scope Of Services and Contractor's proposal, in the sole discretion of the County. Failure by the Contractor to comply with warranty provisions hereof may be deemed by the County as a breach of the Contractor's obligations hereof.

#### **ARTICLE 44. SYSTEM(S) WARRANTIES**

a) Contractor hereby represents and warrants to the County that Contractor has reviewed and evaluated all information furnished by the County and has made all inquiries necessary such that Contractor is fully aware of the County's business requirements and intended uses of the System(s) as set forth or referenced in this Agreement. Accordingly, the System(s) shall satisfy such requirements in all material respects and will be fit for such intended uses. Based on the Contractor's analysis of the Contract Documents, the Contractor hereby represents and warrants to the County that the System(s), as described in the Scope of Services, will meet the County's objectives as set forth in the Contract and that the Contractor is not aware of any material discrepancies among the County's objectives as set forth in the Scope of Services.

b) Contractor hereby warrants to the County that the Software System(s) to be furnished hereunder at each Site, shall for a period of one (1) year from the applicable System Acceptance Date for a specific Site, (i) operate at the dependability levels specified in the Scope of Services, on a Site by Site basis; (ii) operate as fully integrated System(s) with each component thereof functioning completely and in conjunction with each of the other components of the System(s).

c) For a period of one (1) year from the applicable System Acceptance Date for a specific Site, Contractor warrants that the portions of the System(s) which were the subject of such System Acceptance Test shall conform to the requirements of the Scope of Services and shall meet the functional, performance and reliability requirements of the County as set forth in the applicable portions of the Scope of Services and the Contractor's proposal. During such one (1) year period for such Site, Contractor will, at no charge to the County, furnish such materials and services as shall be necessary to correct any System(s) defects and maintain the System(s) in accordance with the foregoing system(s) warranty of this subparagraph d).

d) The performance standards for the System(s) are as set forth in the Contract. Contractor represents and warrants that the System(s) have been configured so that such System(s) performance standards are capable of being met. Such System(s) performance standards shall include, but not be limited to, Contractor's warranty that the System(s) has been properly configured to be capable of handling both the current and the anticipated volumes of transactions specified in the Scope of Services.

#### **ARTICLE 45. EQUIPMENT WARRANTY**

a) The Contractor warrants, for a period of one (1) year from the County's Final System Acceptance, that any Equipment, Hardware and related Software provided by the Contractor shall:

(i) Be free from defects in material and workmanship under normal use and remain in good working order, wear and tear excepted;

(ii) Function properly and in conformity with the warranties in this Agreement;

(iii) Meet the performance standards set forth in the Scope of Work and the Original Equipment Manufacturer's published specifications.

b) During the Warranty Period, Contractor agrees to use all reasonable efforts and resources to provide to the County all corrections and/or modifications necessary to correct problems with the Hardware or Equipment provided by the Contractor that are reported to Contractor, at no additional cost to the price identified in the Price Schedule.

c) During the Warranty Period, Contractor shall enforce the manufacturer's warranty and maintenance obligations relating to the Hardware, Equipment and related Software it provides.

d) In the event the Contractor's Hardware or Equipment does not satisfy the conditions of performance, the Contractor's obligation is to provide repair at the Contractor's cost and expense, or to provide different equipment, software and services required to attain the performance requirements. Failure by the Contractor to comply with warranty provisions hereof may be deemed by the County as a breach of the Contractor's obligations hereof.

#### **ARTICLE 46. THIRD PARTY WARRANTIES**

In addition to the foregoing warranties, the Contractor hereby assigns to the County, and the County shall have the benefit of, any and all subcontractors' and suppliers' warranties and representations with respect to the Licensed Software provided hereunder. In the Contractor's agreements with subcontractors and suppliers, the Contractor shall require that such parties (i) consent to the assignment of such warranties and representations to the County; (ii) agree that such warranties and representations are enforceable by the County in its own name; and (iii) furnish to the County, the warranties and obligations as set forth in Articles 42 "Software Warranties", and 43 "Software Warranty Period".

#### **ARTICLE 47. PATENT AND COPYRIGHT INDEMNIFICATION**

a) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to: equipment programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.

b) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.

c) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).

d) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or subcontractor is a party to any litigation involving patent or copyright infringement, service mark,



trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.

- e) The Contractor shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Work.

#### **ARTICLE 48. TESTS**

- a) Each System provided to the County and installed at a specific site will be subject to several tests, including a System Acceptance test as further defined in the Scope of Service and Contractor's proposal. In order to assure System performance, the County will require a sequence of tests that shall be conducted at no additional cost the County.
- b) Prior to shipment, Contractor shall fully inspect and test the first article of each item of Software when first ordered by the County, and provide evidence thereof in the form of an inspection and/or test report that the items perform in accordance with the Original Software Manufacturers specifications and the requirements set forth in the Scope of Services. Failure of the Software to satisfy the criteria of the by the timeframe set forth in the Implementation Schedule may result in a breach of this Agreement by the Contractor. In the event of Contractor's breach of this Agreement, the County's reserves the exclusive contractual right to assess liquidated damages or to declare the Contractor in default.
- c) Within ten (10) days after issuance of the County's written approval of the first test results the Contractor shall deliver a prototype of the System for testing by County personnel. Contractor shall not ship any additional Software until it has received the County's written approval that the prototype system has satisfied all parameters identified in the Scope of Services and Contractor's proposal. Failure of the prototype system to satisfy the criteria set forth in the Scope of Services and Contractor's proposal by the timeframes set forth in the Implementation Schedule may result in a breach of this Agreement by the Contractor. In the event of Contractor's breach of this Agreement, the County's reserves the exclusive contractual right to assess liquidated damages or to declare the Contractor in default.
- d) Upon issuance, the County's written approval of the User Acceptance Test results Contractor may commence to furnish, deliver and install System(s) and other ancillary equipment and Software provided that Orders have been issued by the County.

#### **ARTICLE 49. EXTENSION OF TIME**

- a. If the Contractor is delayed at any time hereunder due to any of the following then the affected schedule or the required performance of Work may be extended by the County in the reasonable exercise of its discretion for such reasonable time as the County may determine, subject to the following conditions:
  - i. The cause of the delay is beyond the Contractor's control and arises without its fault or negligence, and arises after the execution hereof and neither was nor could have been anticipated by the Contractor by reasonable investigation; and
  - ii. The completion of the Work will be actually and necessarily delayed by the causes set forth in "i" above; and
  - iii. The effect of such cause cannot be avoided or mitigated by the exercise of all reasonable precautions, efforts and measures whether before or after the occurrence of the cause of delay; and

- iv. The Contractor has provided a written request and other information to the County, as described in subsection (d) below, within ten (10) days after the time the Contractor knows or reasonably should have known of any cause which might result in a delay for which the Contractor may request an extension of time. The Contractor shall specifically state in such notice that an extension is or may be requested and identify the cause of the delay, describing the nature and its effect on the completion of the affected portions of the Work identified in the notice. If the Contractor shall fail to give the foregoing notice, the right to request an extension for such cause shall be waived. All of the conditions of this subsection (a) must be met in order to be deemed an Excusable Delay.
- b. All references in this Article to the Contractor shall be deemed to include subcontractors and suppliers, all of whom shall be considered as agents of the Contractor.
- c. The period of any extension of time shall be only that which is necessary to make up the time actually lost. The County reserves the right to rescind or shorten any extension previously granted if the County subsequently determines that any information provided by the Contractor in support of its request for an extension of time was erroneous or that there has been a material change in the facts stated.
- d. The County may require the Contractor to furnish such additional information or documentation, as the County shall reasonably deem necessary or helpful in considering a extension request. The Contractor understands an extension of time will not be granted unless the Contractor affirmatively demonstrates to the County's reasonable satisfaction that the circumstances shown justify such extension.
- e. Within thirty (30) days of its receipt of all information and documentation as may be required by the County, the County shall advise the Contractor of its decision on such requested extension. Notwithstanding the foregoing, where it is not reasonably practicable for the County to render its decision within such thirty (30) day period, it shall, prior to the expiration of such period, advise the Contractor that it will require additional time and the approximate date upon which it expects to render such decision.
- f. Since the granting of an extension of time may materially alter the scheduling plans and other actions of the County and since, with sufficient notice, the County might, if it should so elect, attempt to mitigate the effect of the delay for which an extension of time might be claimed, and since mere oral notice may cause a dispute as to the existence or substance thereof, the giving of written notice as required in subsection (a.) (iv.) above shall be a condition precedent to the Contractor's rights hereunder.
- g. Should any person seek a restraining order, preliminary injunction or an injunction, of which the Contractor becomes aware, which may delay the Services, the Contractor shall promptly give the County a copy of all legal papers received or prepared or received by the Contractor in connection with such action or proceeding.
- h. Neither permitting the Contractor to proceed with the Work subsequent to any missed schedule or performance of any Work (as such date may have been extended pursuant to Article 47 "Extension of Time Not Cumulative") nor the making of any payments to the Contractor shall compromise the County's contractual right to assess liquidated damages or to declare the Contractor in default.

#### **ARTICLE 50. EXTENSION OF TIME NOT CUMULATIVE**

In the event the Contractor shall be delayed concurrently by two or more of the causes identified in Article 47 "Extension of Time" above, the Contractor shall be entitled to a separate extension of time for each one of the causes but only one period of extension shall be granted for the delay. In addition, the Contractor shall not be entitled, by reason of a delay, to an extension of time for the completion of the overall Work unless the overall

Work is necessarily affected by the delay. Accordingly, in the event of a delay, the Contractor shall proceed continuously and diligently with the performance of the unaffected portions of the Work.

#### **ARTICLE 51. NO DAMAGES FOR DELAY**

The Contractor hereby agrees to make no claim for damages for delay, whether contemplated or not contemplated, in the performance hereunder occasioned by any acts or omissions to act of the County, or any of its representatives or other contractors, and agree that any such claim shall be fully compensated for by an extension of time to complete performance of the Work, as provided for in Articles 47 and 48 "Extension of Time", "Extension of Time Not Cumulative", and 49 "No Damages for Delay".

#### **ARTICLE 52. CHANGES AND EXTRA WORK**

- a. The County reserves the right to order changes which may result in additions to, reductions to or deletions from the amount, type or value of the Work required by this Agreement. Any such work shall be known as "Extra Work". It is understood and agreed by the Contractor that the amount to be paid or deducted from payment by the County for Extra Work shall be computed on the basis of the applicable rates set forth in the Price Schedule for equivalent items as determined by the Project Manager. Extra Work so ordered must be performed by the Contractor.
- b. No Extra Work shall be performed except pursuant to written orders of the Project Manager expressly and unmistakably indicating his intention to treat the work described therein as Extra Work. In the absence of such an order, if the Project Manager shall direct, order or require any work which the Contractor deems to be Extra Work, the Contractor shall nevertheless comply therewith and shall promptly, and in no event after beginning the performance thereof or incurring cost attributable thereto, give written notice to the Project Manager stating why he/she deems such work (hereinafter "Disputed Work") to be Extra Work. Said notice is for the purposes of (1) affording an opportunity to Project Manager to cancel promptly such order, direction or requirement; (2) affording an opportunity to the Project Manager to keep an accurate record of the materials, labor and other items involved; and (3) affording an opportunity to the County to take such action as it may deem advisable in light of such disputed work.
- c. No change in or modification, termination or discharge of this Agreement in any form whatsoever, shall be valid or enforceable unless it is in writing and signed by the party to be charged therewith or his duly authorized representative; provided, however, that any change in or modification, termination or discharge of this Agreement, expressly provided for in this Agreement shall be effective as so provided. The County may only be bound hereunder by a properly authorized officer of the County.
- d. In the event that the County shall order Extra Work for which there are no applicable rates set forth in the Price Schedule for equivalent items as determined by the Project Manager, it is understood and agreed by the Contractor that the County and the Contractor shall negotiate a mutually agreeable price to be paid by the County for the Contractor's performance of such Extra Work.

#### **ARTICLE 53. SOFTWARE ESCROW**

The County requires that the Contractor maintain a software escrow account throughout the life of the Agreement to protect against failure of the Contractor to provide the agreed upon services. A copy of the vendor's source code is to be kept by a trusted third party to ensure that the County will have access to the source code in the event that the Contractor is unable to support the software. The Contractor is required to maintain the most current version of the application with the escrow agent including but not limited to all incremental releases and upgrades.

**ARTICLE 54. FORCE MAJEURE**

Except as otherwise expressly provided herein, neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that such performance is prevented or delayed by any cause, existing or future, which is not within the reasonable control of such party including, but not limited to, acts of God or the public enemy, fires, explosions, riots, strikes (not including strikes of the Contractor's staff personnel), terrorism or war. Notwithstanding the foregoing, the failures of any of the Contractor's suppliers, subcontractors, or the like shall not excuse the Contractor's performance except to the extent that such failures are due to any cause without the fault and reasonable control of such suppliers, subcontractors, or the like including, but not limited to, acts of God or the public enemy, fires, explosions, riots, strikes (not including strikes of the Contractor's staff personnel), terrorism or war.

IN WITNESS WHEREOF; the parties have executed this Agreement effective as of the Agreement date herein set forth below.

**CONTRACTOR**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Corporate Secretary

Corporate Seal

**MIAMI-DADE COUNTY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Clerk of the Board

Approved as to form  
and legal sufficiency\_\_\_\_\_  
Assistant County Attorney

# **Exhibit A**

## **Software on Designated Equipment**

DRAFT

Exhibit A - Software on Designated Equipment

DRAFT

## **Appendix A – Scope of Services**



**APPENDIX A – SCOPE OF SERVICES**

DRAFT

## **Appendix B – Payment Schedule**

**APPENDIX B – PAYMENT SCHEDULE**

***LICENSED SOFTWARE, MAINTENANCE AND SUPPORT SERVICES***

DRAFT